



Land Code Community Participation for Environmental Governance

Course Workbook



FIRST NATIONS
LAND MANAGEMENT
RESOURCE CENTRE



Training, Mentorship &
Professional Development

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Land Code Community Participation for Environmental Governance

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This course provides an overview of the role of education and outreach in environmental governance and suggests useful tools that can be used during the process of developing, adopting and implementing the Environment Management Plan (EMP) as well as associated environmental laws, regulations and policies.

Welcome

Welcome to the Community

Participation for Environmental Governance courselet. The main purposes of this courselet is to provide an overview of the role of education and outreach in environmental governance and to suggest useful tools that a Lands Governance

Director (LGD) can use during the process of developing, adopting, and implementing the Environmental Management Plan (EMP) and associated environmental laws, regulations, and policies.

This lesson will:

- Discuss why education and outreach are important and how they support the LC
- Present the main components of an outreach and education strategy
- Suggest several education and outreach methods and describe when to use them
- Provide an example of a job description for a communications staff position
- Discuss outreach and education costs and funding sources

The material provided in this courselet is current to the date of the courselet.

Module 1: Introduction to Community Outreach

Education and outreach

Terminology:

A Land Code (LC) requires the active participation of community members to ensure the development and approval of First Nation Laws, Land Use Planning and many other aspects of land and environmental governance.

Values: The environmental laws, policies and plans developed under the Land Code need to reflect the values of the community.

Community outreach or involvement is a way to determine these values so that they may be integrated in a First Nation's environmental governance.

Land Code: The First Nation Land Code (LC) should address education and outreach. It would be prudent for the Lands Governance Director/ Lands Manager (LGD) to make note of the types of laws that require:

- Community input
- Community approval or
- Ratification vote

For example: a First Nation wants to adopt a new law or prevent unregulated dumping of fill on First Nation lands. The Lands Governance Director/Lands Manager (LGD) needs to look to the Land Code to see what kind of community input is needed. From this mandatory requirement a LGD will need to develop an education and outreach program for this law such as:

- Determining timelines associated with notifying the members
- What method must you use to notify the members
- Other

Governance: The education of First Nation's community members about environmental matters, and community engagement during planning processes is essential for effective environmental governance.

Framework Agreement: Greater indigenous governmental transparency, accountability and efficiency are all hallmarks of the Framework Agreement on First Nation Land Management. That is why ongoing community education and engagement are effective way to share technical and non- technical information about the environment and associated environmental laws policies and plans for community lands and resources.

Outreach and Education Plan

An Outreach and Education Plan is a document that expresses the goals and methods of the First Nation for communicating with the public about a specific idea or initiative (i.e.: land law). It includes goals, target audience, engagement methods, and roles and responsibilities. Community outreach and education methods can include a wide variety of activities, such as community meetings, open houses, tours, interviews and mapping.

Community education and engagement becomes part of a First Nation's mandatory requirements under its Land Code. Therefore, a Lands Governance Director/Lands Manager (LGD) should ensure that they have the required budget and they schedule the appropriate amount of time to do this very important work.

1. When Should Community Education and Engagement Occur?

Community education and engagement should ideally occur before, during and after:

- The development of the Environment Management Plan
 - Enactment of Environmental laws policies and plans
 - Land Developments and/or related projects
- ## 2. Why do Community Education and Outreach?

A First Nation wants to do community education, outreach and engagement:

- To increase community awareness
- Receive feedback
- To get community participation in these initiatives
- Communicate the importance of protecting the environment
- Comply with legal requirements of Land Code (LC) governance regarding required community participation

Community members must support and understand the mechanics, purpose and vision of environmental governance under their LC. This will support the effectiveness and compliance of environmental efforts.

3. Who Should do the Education and Outreach?

A staff person or consultant will likely be needed to coordinate the communications activities. For larger initiatives, several communications staff will be necessary. The communications staff will be responsible for coordinating the implementation of the communications strategy including organizing events, producing outreach materials, responding to community requests, and communicating with Lands staff. An example of a job description for a Communications staff person is available by clicking this link: [Communications Support Worker Job Description](#).

Benefits of Community Outreach

There are many benefits of community education and outreach that can far outweigh the cost of implementing it.

Governance

Active and on-going community outreach helps bring people together and builds a stronger community and government. Effective community engagement helps to make better and more effective decisions. The results will likely be a good reflection of the community's values and vision. Meaningful community engagement will increase the credibility of the process and result in plans and laws that are supported by the community.

Land Code Mandatory Requirements

Community engagement and outreach are required components of implementing a Land Code, enacting laws and creating environmental plans. Compliance with a Land Code may require discussion and decisions by a quorum of community members at community meetings.

Community Members

Community members are key sources of knowledge about reserve lands, resources, traditional use sites and history. Community members are respected when their words are recorded, considered and integrated. Conveying information to community members increases their understanding and promotes meaningful involvement in Land Code planning and decision-making processes. Community outreach can empower community members and build their capacity and skills.

Incorporating Traditional Knowledge

Community outreach provides an opportunity for the community to share their knowledge about the environment and lands. Some community members have first-hand traditional understanding and experience of the land and can contribute important oral history and practices regarding the land that has been passed down from previous generations.

Framework Agreement

The Framework Agreement was intended to formally recognize and codify indigenous traditions in land governance under a Land Code. Lands Governance Directors/Lands Managers should seek ways of incorporating traditional knowledge and indigenous language in environmental governance activities and plans.

Traditional Knowledge

Indigenous languages and cultural practices are a key component to understanding and preserving this valuable knowledge that has accrued over millennia. Speakers of the language are in significant decline. Cultural practices have been handed down from generation to generation. Every effort and opportunity should be taken to record and integrate these important language-based teachings into the Environment Management Plan.

Module 2: Community outreach and Land Code

Strategic Communication Plan, Outreach and Land Code

Strategic Communication

After a Land Code is adopted, the First Nation needs to develop a communication strategy to accompany the drafting, adoption and implementation of laws, regulations and policies.

Strategic Communication Plan

The Centre for First Nation Governance produced a sample Strategic Communications Plan Template to assist FNs with developing a successful and effective communications strategy. Many of the points outlined in the [Strategic Communications Plan Template](#) will be helpful for developing this strategy. Go to the [LAB website](#) to access other communication tools.

Lands Governance Director/ Lands Manager (LGD)

A LGD should be aware of the following differences between communication requirements for adopting a Land Code versus new laws:

- Community outreach and education during the drafting, adoption and implementation of laws is not a one-time practice. The First Nation should engage and provide information to community members on an on-going basis.
- The target audience may be only an interested or affected group of community members, rather than the entire community. Even if the entire community is engaged in discussion of an issue, specific members may require additional attention. Unlike a Land Code vote, potentially affected non-members should be a target audience if they have an interest in the law, regulations or policy under consideration.

How Does Outreach Support a Land Code?

A First Nation's Land Code outlines the Community Consultation process required for law-making. Each First Nation may have different Land Code requirements and may approach community outreach differently.

As an example, we will take a look at the Lands Advisory Board Resource Centre's (LABRC) [Model Land Code](#) which is the basis for developing each First Nation's Land Code. This model Land Code sets out the procedures for community meetings and approvals in Part 3 Section 12 to 15. The Land Governance Director, when doing outreach, should ensure that they follow the First Nation Land Code that was approved and is now in effect.

Model Land Code

Section 12

Procedures for advertising and holding a meeting of members are listed in Section 12.

Section 13

Council must request community input at a meeting of members for the laws listed in Section 13 (these laws relate to environmental assessment, environmental protection or environmentally sensitive areas, plus other laws that do not pertain to the environment).

Section 14

Community approval at a meeting of members is required for land use plans, long term leases, or the laws listed in Section 14.

Section 15

Community approval by a ratification vote are listed in Section 15.

Community consultation associated with Land Code (LC) matters needs to follow the timelines and activities specified in the First Nation approved LC. Though this process is the minimum community consultation that is required, additional consultation may increase the success of LC implementation. Formal community meetings associated with LC requirements are held to a higher standard of notification, conduct, and recording of results than other (less formal) styles of community engagement that accompany many environmental initiatives.

Components of an Outreach Strategy

A Lands Governance Director/ Lands Manager (LGD) developing an outreach program should consider the following common components of such initiatives (click on the icons below):

Determine regulatory requirements:

1. Determine Regulatory Requirements

Before beginning the engagement process, determine if there are regulatory requirements associated with community involvement for the topic being considered.

Ask Questions:

1. Is a vote required?
2. Is a meeting of members required?
3. Is member discussion required?
4. What role does the lands committee have?
5. How much advance notice do community members need before the initiative is considered by Chief and Council?
6. Is a mail out notice required?
7. Is posting in public places required?

2. Prepare a plan for education and outreach

Before embarking on education and outreach, prepare a brief plan that describes:

- a. What is the reason for the initiative?
- b. How it will be achieved?
- c. Who will be involved, timing, and methods?

The engagement plan can help to organize people involved in the education and outreach work, and can be used to seek approval of the plan from Council. The plan should describe the following points.

Purpose - What is the purpose of conducting an outreach and education program for this project? What does the initiative intend to achieve?

Target audience - Who needs to be engaged? Be specific. Think about who might be affected and who has useful knowledge. Ensure that these groups and individuals are well represented in the process

Communication methods - Communication methods should be tailored to the target audience. How will the outreach effort engage each target audience? In most situations, several methods should be used. Different methods may be needed for different target groups. Some people prefer receiving mail-outs or emails, whereas others like to attend community meetings. Review the effectiveness of previous community engagement or ask the community how they prefer to be engaged through a survey.

3 Approve the plan

The engagement plan may involve other First Nation departments and/or Council. Whomever the Lands Governance Director/ Lands Manager (LCD) reports to (Chief Operating Officer, Band Manager, Council) should review the engagement plan and the LCD may need to seek approval of the plan from these entities because it may require budget approval. Also, if the LCD required Council or other First Nation staff to implement the plan Council should review and approve the plan.

4 Implement the education and outreach program

The "Education and Outreach Methods" section of this lesson provides a list of methods for conducting education and outreach activities. Talk to other departments or Lands Governance Directors / Lands Managers from other First Nations to find what methods they have tried and how the methods work.

5 Share the findings

The results of the outreach and education program with staff in other departments, Chief and Council, the Lands Management Committee, and other people working on the law, policy or plan. Community members will also be interested in hearing the results. For large projects that

could affect many people and that have substantial community outreach, it may make sense to hold a final community meeting to present the results of the initiative. For smaller projects, a mail out to members or summary in the community newsletter may be sufficient.

6 Evaluate the results

Evaluation allows the First Nation's staff to learn from the successes and failures of an education and outreach initiative. Information on effectiveness can be obtained from surveys distributed at the end of community events to find out what participants liked and disliked about the event. Debriefing meetings can be held with staff and consultants involved in the initiative. Record peoples' thoughts on what worked well and what did not. Produce a short report that documents the results of the evaluation.

The development of a First Nation's own education and outreach strategy requires a lot of time and resources. Many questions and answers need to be identified. The [Education and Outreach Strategy Worksheet Sample document](#) will aid your First Nation in determining its requirements.

Module 3: Community outreach strategies

[Education and Outreach Methods](#)

There are many education and outreach methods a First Nations may want to use. We will take a look at 4 examples:

Community Meetings:

Most communities are familiar with the use of community meetings. To be useful, such events require structure, such as a presentation about the initiative, opportunities for people to share what they think, and perhaps use of written forms. To encourage attendance, provide a snack, meal and/or door prizes, and try to schedule your meeting around other events in the community.

Youth Committee:

A youth committee can be set up for a specific initiative or meet regularly to assist in preparing laws and plans or provide ideas and feedback.

Newsletter:

Written text and graphics can be presented in the community newsletter. Substantial amounts of information can be conveyed, particularly if the newsletter is devoted to a single topic. Careful editing and formatting are needed, and be sure to budget for printing, mailing and delivery costs.

Website:

Post information about the initiative on the First Nation website or create a new website for the initiative.

We have only looked at 4 education and outreach methods. [The Education and Outreach Methods document](#) lists several more methods along with how each method is conveyed and when to use a specific method.

How to be Successful at Community Outreach

To be successful at community education and outreach, you must look at the First Nation's needs and what type of engagement methods are best suited for the First Nation. How to Determine the Best Methods? The community engagement methods used will depend on:

- Regulatory requirements
- Direction from Chief and Council
- Available funding
- The size, demography and location of the target audience
- The type of information you need from the community ("information in")
- What information you want to share with the community ("information out")
- The education level of the target audience, and their preferred method of communication

What are some Tips to Help a First Nation?

The following tips can help create a successful community outreach and education initiative. Please see below.

<https://documentcloud.adobe.com/link/review?uri=urn%3Aaaid%3Ascds%3AUS%3Aebc87cbf-d751-4cd3-98a3-70d4c33b0967>

Who Should Be Involved?

Education and outreach can involve the entire community or may be limited to specific groups. Click on the graphics below for more information.

Target Groups

In some cases, it may be useful to focus outreach on people who have a particulate interest or who are directly affected by the law or policy that is being developed. For example, you may want to target people who participate in traditional activities on the reserve when developing a law or policy about a specific resource.

Community Members

If all community members are the target audience, the outreach program should recognize different groups in the community, such as youth, elders, on-reserve members and off-reserve members and ensure that each group is well represented in the engagement activities.

Non-First Nation Members

Non-aboriginal residents or businesses may be part of an outreach program if their interests could be affected by a First Nation's plans, laws or policies.

A staff person or consultant should be assigned responsibility for the management of the outreach and education program. The roles and responsibilities of Lands Department staff and other departments should be described in the outreach and education plan.

Guide to Engaging Youth

Youth represent a significant portion of many First Nations communities, but youth are often the most difficult group to engage in outreach initiatives. Traditional engagement methods such as community meetings are not normally well attended by youth. Some First Nations communities have successfully engaged youth in their planning initiatives.

Click on the icons to learn how to engage the youth.

Involve Youth in the Project

Hire a youth staff person or volunteer, involve youth in video recording of interviews or events, or organize a youth committee or council. Allow youth to be creative - Making art, maps, music and videos are great ways to engage youth.

Plan Youth Only Events

Plan youth-only events that include games, movies, crafts, prizes, or other entertainment, and always serve food (pizza is particularly popular). Make the event informal with lots of opportunity for discussion.

Ask Interesting Questions

Ask interesting questions - For example, the TSou-ke First Nation engaged youth in a separate process for the development of their Comprehensive Community Plan process. They asked questions such as "What would you do if you were Chief?" to find out how the youth would plan the community differently. Allow youth to be creative - Making art, maps, music and videos are great ways to engage youth.

Go Where the Youth Hang out

Go to schools, community centres, skate parks and other youth hangouts and talk to them directly.

Use Social Media and Email

Use social media such as Facebook and Twitter to share information and ask youth what they think. There needs to be a discussion at the First Nation when, how and for what the First Nations sanctions the use of social media. First Nations needs to be very familiar with the rules of the social media they are using and control the management of it.

Who Pays for Education Outreach?

A First Nation should be aware of the costs and the required budget for developing and implementing the First Nation's education and outreach plan.

Cost

Some of the costs associated with education and outreach are:

- Staff salaries and honorariums (if applicable)
- Consultant fees (if applicable)
- Event costs (hall rental, security deposits, food and beverages)
- Printing of display materials, mail outs, brochures, videos and developing maps
- Postage
- Writing and printing reports of outreach results
- Collating, analyzing, and reporting information from participants

Budget

Education and outreach costs should be included in the budget for adopting a plan, policy, regulation or law. The funding for these activities can come from several possible sources:

1. First Nation operating budget, depending upon the structure of the First Nation.
2. Grants (foundations, corporations or government).
3. Government funding.
4. A developer (through fees) or as project costs for community involvement in development review.

Staff salaries are a cost associated with an education and outreach program. Other costs include printing and postage, material design and production (including website design), venue rental, food and beverages. Benefits can outweigh the costs of implementing the plan such as:

- Increased community understanding and meaningful involvement.
- Helps bring people together and builds a stronger community and government.



GLOSSARY OF TERMS

ENVIRONMENTAL ASSESSMENT

According to the International Association of Impact Assessments, an EA is

“the process of identifying, predicting, evaluating and mitigating the biophysical, social and other relevant effects of development proposals prior to major decisions being taken and commitments made.”

An EA examines effects of proposed projects on soil, air quality, water quality and supply, fisheries, wildlife, traffic, noise, community health, economic development, archaeology and a variety of other social, economic and environmental topics. A well-designed EA assesses the “cumulative effects” of a proposed project combined with other past and proposed future human activities. Ways of avoiding or reducing impacts are identified in an EA.

An EA is a planning tool, a means of reviewing the effects of proposed development, a process of community engagement and an instrument for complying with regulatory requirements. After considering federal and provincial environmental assessment processes, an operational First Nation can design an efficient EA regime that is beneficial to the environment and to the quality of development occurring on reserves.

ENVIRONMENTAL MANAGEMENT PLAN

An Environmental Management Plan defines a FN’s approach to important environmental issues and organizes actions to achieve specified environmental goals.

ENVIRONMENTAL PROTECTION

Environmental protection is defined as the efforts made to identify, remediate and prevent contamination of soil, water and air, and to reduce attendant risks to environmental and human health and safety. The adverse effects of exposure to contaminants may result from direct or indirect contamination of soils, water, and air from hazardous materials and uncontrolled exposure to those contaminants.

FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT

The *Framework Agreement on First Nation Land Management* is a government-to-government agreement. The Framework Agreement is an initiative for First Nations to opt out of the land management sections of the *Indian Act* and take over responsibility for the management and control of their reserve lands and resources. The Framework Agreement sets out the principal components of this new land management process.



The *Framework Agreement* provides First Nations with the option to manage their reserve lands under their own Land Codes. Until a First Nation community develops and approves a Land Code to take control of its reserve lands and resources, federal administration of their reserve lands continues under the Indian Act. The Framework Agreement is not a treaty and does not affect treaty rights or other constitutional rights of the First Nations.

LAND CODE

A Land Code will be the basic land law of the First Nation and will replace the land management provisions of the Indian Act. The Land Code will be drafted by the First Nation and will make provision for the following matters: identifying the reserve lands to be managed by the First Nation (called “First Nation land”), the general rules and procedures for the use and occupation of these lands by First Nation members and others, financial accountability for revenues from the lands (except oil and gas revenues, which continue under federal law), the making and publishing of First Nation land laws, the conflict of interest rules, a community process to develop rules and procedures applicable to land on the breakdown of a marriage, a dispute resolution process, procedures by which the First Nation can grant interests in land or acquire lands for community purposes, the delegation of land management responsibilities, and the procedure for amending the Land Code.

LANDS ADVISORY BOARD

Under Sections 38, 39, and 40 of the *Framework Agreement*, the First Nations have established a First Nation Land Advisory Board (LAB) to provide:

- Developmental First Nations political, technical, legal, advisory and financial support
- Operational First Nations assistance in implementing the *Framework Agreement* and their own land management regimes.

The LAB is composed of Chiefs regionally elected from the Operational First Nations.

Some of the LAB’s functions include:

- Establishing a resource centre
- Providing strategic direction to the Resource Centre
- Proposing to the Minister such amendments to the *Framework Agreement* and the federal legislation, as it considers necessary or advisable in consultation with First Nations



- Negotiating a funding method with the Minister, and performing such other functions or services for a First Nation as are agreed to between the LAB and the First Nation.

The LAB established a resource centre to carry out many of its technical functions and this body is the Lands Advisory Board Resource Centre (LABRC).

LANDS ADVISORY BOARD RESOURCE CENTRE

Under the *Framework Agreement*, the First Nations have established a LABRC to assist the First Nations in implementing their own land management regimes. The LABRC is the technical body intended to support First Nations in the developmental and operational phases implementing the *Framework Agreement*

The LABRC's functions are:

- Developing model land codes, laws and land management systems
- Developing model agreements for use between First Nations and other authorities and institutions, including public utilities and private organizations
- On request of a First Nation, assisting the First Nation in developing and implementing its land code, laws, land management systems and environmental assessment and protection regimes -assisting a verifier when requested by the verifier
- Establishing a resource centre, curricula and training programs for managers and others who perform functions pursuant to a land code
- On request of a First Nation encountering difficulties relating to the management of its First Nation lands, helping the First Nation in obtaining the expertise necessary to resolve the difficulty
- Proposing regulations for First Nation land registration

RESERVE

The *Constitution Act of 1867 Section 91 (24)* - "Indians and lands reserved for Indians":

- Creates a distinction between Indian reserve lands and other lands in Canada
- Provides that Indians and reserve lands are a federal responsibility
- Gives the federal government exclusive jurisdiction over reserve lands
- Provides that only Parliament can legislate with regard to the use of reserve lands

The basic legal framework underlying reserves is:

- The underlying legal title to reserves belongs to the federal Crown
- How the reserve was created (e.g. before or after Confederation in 1867)
- Pursuant to section 2 of the *Indian Act*, reserves are set aside by the Crown in Right of Canada for the use and benefit of a First Nation



The *Framework Agreement* (see Section 4) clarifies that reserve lands under a Land Code will continue to be reserves within the meaning of the *Indian Act* and that any reserve, title to which is vested in Canada, and managed by a First Nation under a Land Code, will continue to be vested in Canada for the use and benefit of the respective First Nation for which it was set apart.

Environmental Effects and Impacts

Type	Associated Activities and Sub-Activities	Potential Environmental Effects	Mitigation of Environmental Impacts
Roads and Bridge Works	<p>Construction, includes:</p> <ul style="list-style-type: none"> • New road and bridge construction • Reconstruction or modification, such as road upgrading, resurfacing and bridge replacement <p>Operations:</p> <ul style="list-style-type: none"> • Primarily traffic management; more specifically the types of users and their access to road networks <p>Maintenance, including:</p> <ul style="list-style-type: none"> • Grading • Snow clearing • Sanding which improves traction • Use of road salt to control ice and snow • Dust control • Debris clearing from roadways, culverts and ditches • Ditch digging and clearing • Weed control • Tree and brush removal • Bridge repair 	<ul style="list-style-type: none"> • Erosion and sedimentation • Damage to road surfaces due to overweight vehicles exceeding load limits • Damage to road due to excess traffic in adverse weather conditions (e.g. ruts, potholes) • Air quality effects, such as dust generation, or vehicle emissions. • Nuisance effects, including noise and glare • Effects on fish habitat, e.g., water quality, reduction of riparian vegetation or impact to riparian vegetation, bank stability • Deterioration of surface water quality, soil quality and potential groundwater contamination by water runoff from road networks draining that contains salts, heavy metals, chemicals etc. • Spills of dangerous goods 	<ul style="list-style-type: none"> • Develop a plan that addresses runoff, including erosion and sediment control measures • Limit use of heavy machinery in and around water and riparian areas, especially during times of high water flow • Limit application of road surface materials in less than ideal weather conditions • Clearly identify the type of vehicle use and schedule of timing for the type of road access • Setbacks from water bodies • Erosion control on slopes • Establish roadside landscaping program e.g. incorporating salt tolerant plants to act as a filter or trees as a noise barrier • Replace winter road salt with less harmful chemical formulations (sand mixture) • Employ trained environmental inspectors during road construction, upgrading, and culvert replacement work. • Establish dangerous goods routes • Enact noise abatement law or bylaw

Environmental Effects and Impacts

Type	Associated Activities and Sub-Activities	Potential Environmental Effects	Mitigation of Environmental Impacts
Water Supply Systems	<p>Construction:</p> <ul style="list-style-type: none"> • New construction of water delivery facilities and water quality control facilities • Reconstruction or modification of existing infrastructure <p>Operation:</p> <ul style="list-style-type: none"> • Accessing water sources • Treatment of accessed water in accordance with the type of use with things such as salt and/or chlorination • Transfer and distribution of water to consumer (e.g. resident or industry) <p>Maintenance:</p> <ul style="list-style-type: none"> • Flushing lines • Maintaining the pumps • Replacing UV lights 	<ul style="list-style-type: none"> • Impact to environment during the construction of water supply infrastructure, such as removal of native vegetation, and effects on wildlife, fish and insects • Breaches in water supply pipes, which can lead to contamination of the freshwater supply and a decrease in the amount available for human use and consumption • Chlorinated water can harm aquatic organisms • Poor treatment of polluted water taken from water reservoirs can pose risk to human health 	<ul style="list-style-type: none"> • Perform necessary treatment of water in accordance with acceptable water quality standards • Establish and implement regular maintenance and monitoring of all systems and facilities • Do not release chlorinated water directly into natural watercourses • Employ qualified water quality monitors to conduct inspections and review reports • Employ environmental inspectors during facility construction and land-disturbing maintenance

Environmental Effects and Impacts

Type	Associated Activities and Sub-Activities	Potential Environmental Effects	Mitigation of Environmental Impacts
Wastewater and Sewage Systems	<p>Construction:</p> <ul style="list-style-type: none"> • New construction of sewage, irrigation systems, stormwater management and related erosion, flood water control systems. • Reconstruction or modification of existing sewage, stormwater and flood management facilities. <p>Operation:</p> <ul style="list-style-type: none"> • Collection of wastewater through combined drainage systems or separate stormwater and sewage systems • Transport and treatment of wastewater and sewage • Discharge of stormwater and treated wastewater effluent • Disposal of sewage sludge <p>Maintenance:</p> <ul style="list-style-type: none"> • Repairs to existing infrastructure and minor replacement 	<ul style="list-style-type: none"> • Deterioration of water quality through discharge of untreated wastewater can contaminate fresh water with nutrients, heavy metals, and salts. • Excess nitrates in untreated wastewater can impact groundwater supplies • Soil and vegetation can be adversely affected by excess contaminants in discharged poorly treated wastewater • Untreated sewage discharge can result in soil and water contamination by pathogenic microorganisms (bacteria, viruses and worms), harmful organic chemicals, and pharmaceutically-active compounds. 	<ul style="list-style-type: none"> • Establish environmental discharge standards for each level of activity, e.g. domestic, commercial, light industrial, heavy industrial or special uses • Establish separate water treatments for residential, commercial and light industrial activities vs. major wastewater generators, so that environmental discharge standards can be met • Construct pre-treatment facilities where appropriate • Establish and implement regular maintenance and monitoring of all systems and facilities • Employ qualified monitors to conduct facility inspections, sample wastewater effluent, and prepare reports • Employ environmental inspectors during construction or ground-disturbing maintenance.

Environmental Effects and Impacts

Type	Associated Activities and Sub-Activities	Potential Environmental Effects	Mitigation of Environmental Impacts
Solid Waste Management Systems	<p>Construction:</p> <ul style="list-style-type: none"> • New construction of transfer station facilities, or the modification of the current waste transfer station facility <p>Operations include:</p> <ul style="list-style-type: none"> • Collection from households, commercial and industrial areas and from community areas • Transferring and sorting of wastes <p>Disposal</p> <ul style="list-style-type: none"> • Dumping, Sanitary landfill, off-reserve, disposal, incineration, recycling 	<ul style="list-style-type: none"> • Air quality issues due to methane or other noxious emissions, and foul odours • Chemical pollutants e.g. leachate, which can contaminate groundwater • Animals and insects breeding • Attracting bears gulls and ravens to landfills and garbage cans 	<ul style="list-style-type: none"> • Waste reduction strategy identified and implemented • Implement an active recycling program • Negotiate municipal service agreements • Create and implement a regular maintenance and monitoring program • Review reports to ensure that adjacent off-reserve landfill meets accepted standards for construction and operation. • Identify appropriate waste collection receptacles as per the collection method and schedule

Environmental Effects and Impacts

Type	Associated Activities and Sub-Activities	Potential Environmental Effects	Mitigation of Environmental Impacts
Community Buildings	<p>Construction:</p> <ul style="list-style-type: none"> • New construction of community buildings • Renovations or modifications of existing community buildings <p>Operations and Maintenance:</p> <ul style="list-style-type: none"> • Janitorial and cleaning services • Painting, mechanical and electrical maintenance activities, mowing, planting and pruning 	<ul style="list-style-type: none"> • Erosion from poorly functioning drainage systems • Poor storage of chemicals e.g. paints, solvents • Excessive energy use from poor insulation or building design, and maintenance flaws • Excessive water use due to poor maintenance or selection of landscaping plants that require irrigation. • Encourage vandalism 	<ul style="list-style-type: none"> • Establish guidelines for handling and storage of chemicals in all community buildings • Ensure new structures meet appropriate energy conservation and other environmental standards. • Establish a maintenance program to upgrade energy and water consumption performance of buildings. <p>See also, wastewater, sewage and solid waste systems for appropriate measures to be taken in collection and disposal of wastes that are generated in community buildings</p>

NOTE: The items on this table represent many operations and maintenance activities, but are not meant to be an exhaustive list.

Education and Outreach Methods

Method	How information is conveyed	When to use this method
Newsletter	Written text and graphics presented in the community newsletter. Substantial amounts of information can be conveyed, particularly if the newsletter is devoted to a single topic. Careful editing and formatting is needed.	Newsletters are a good way to keep community members up to date on all band activities. If your community has a newsletter, community members will expect information about the initiative to be included. If your community does not have a newsletter, consider creating one as a way to keep in touch with community members.
Notices and flyers	A one-page notice or poster that provides information about the initiative or an event. Limited detail can be provided.	Use this method when you are holding an event or requesting public input. Posting a public notice is a requirement for some activities in Part 3 of the LABRC's Model Land Code . Post the notices or flyers in public places in the community, or hand them out before scheduled events.
Brochures (mail outs or emails)	Information about the engagement initiative can be sent through mail or email. Limit the document to 4 pages or less. Surveys can be included in mailed documents, and links to online survey instruments can accompany emails.	This method is useful to share complex information with members. Mail drops, direct mail or email can be used for distribution. Notification by mail may be a regulatory requirement in Part 3 of the First Nation's Land Code.
Website	Post information about the initiative on the First Nation website or create a new website for the initiative. Update the website regularly with information and include the website address in all outreach materials. This technique can provide text, graphics and videos.	A website should support your other communication approaches. A website may be your main communication tool for reaching businesses, industry, government and many community members. However, it is important to remember that many people may not have access to the internet or may not visit the band website regularly. Regular update and maintenance of a website is essential.

Education and Outreach Methods

Method	How information is conveyed	When to use this method
Social media	Create accounts on social media sites such as Facebook or Twitter. Post updates regularly, invite informal comments, and post links to events and draft documents. The amount and type of information that can be conveyed varies with the type of social medium.	Social media can be a great way to engage youth. It may be best for announcing events, rather than conveying large amounts of information. This method may not be appropriate for communities that have limited internet access. The First Nation needs to decide when, how and for what the use of social media will be sanctioned. Staff need to be familiar with the rules of the social media and control its management.
Community meeting	Most communities are familiar with the use of community meetings. To be useful, such events require structure, such as a presentation about the initiative, opportunities for people to share what they think, and perhaps use of written forms. Small-group sessions may be used to allow more in-depth discussion. Food and refreshments are commonly provided. The Squamish Nation holds Family meetings as part of their community engagement.	Meetings can be used at the beginning of a process (to gain information), in the middle (to present and discuss draft documents), or at the end (to explain a decision). Meetings are a common and familiar way to engage communities. Community meetings should not be the only method of engagement, but they allow airing of community views, and discussion of different perspectives. Meetings can offer a good balance of “information out and information in.” Substantial preparation and cost may be required.
Advisory committees	Advisory committees are generally a small group of between 5 and 10 people who have knowledge of, or interest in, the topics under study. Members may be appointed or may volunteer. It is important that committees represent a cross section of the community.	Committees can provide detailed review comments and information in a planning process, before information is presented to the community, and can help interpret community comments after a meeting. Committees can meet frequently and regularly throughout a long process, or they may have a more limited, short-term function.

Education and Outreach Methods

Method	How information is conveyed	When to use this method
Youth committee	A youth committee can be set up for a specific initiative or meet regularly to assist in preparing laws and plans or provide ideas and feedback.	Use this method when engaging youth is a priority. A youth committee should be considered a type of advisory committee.
Open house	Open houses are typically held in well-known community facilities. Information displays should be provided, and staff should be on hand to answer questions. Food and refreshments are usually expected by attendees. Structured ways of collecting comments are best, whether survey forms or encouraging attendees to draw on maps.	Use this method when broad community contact is needed, and when opportunities for one-on-one discussions are desired between staff and members. Open houses lend themselves to visual presentations, using display boards to share with the community. Open houses give community members a chance to learn about an initiative, ask questions and provide comments. Open houses are more informal than a community meeting. Similar to meetings, the “fixed schedule” of an open house excludes participation by people that are unavailable for the event.
“Passport” activity	Hand out “passport cards” as people enter an open house. Participants will get a stamp or sticker on their passports when they participate in each activity. Activities might include picking up a pamphlet or completing a survey. After participants have collected all of the stamps, they hand in their completed passports for a chance to win a prize.	This activity works well for events where community members need to participate in several activities, particularly if the community event presents information on several different projects.
Displays at community events	Set up tables of board displays at community events. Provide brochures and information for people to take away. Staff may be on hand to answer questions.	Use this method to reach people that may not attend community meetings and open houses. Displays can be considered a “mini open house.” This is a good way to communicate a limited amount of information, advertise upcoming events, and to ask people to fill out surveys.

Education and Outreach Methods

Method	How information is conveyed	When to use this method
Surveys	Surveys can be conducted online, at events, by mail, or in person. Surveys require careful structuring and wording, distribution to targeted groups, and attention to accuracy in collating and interpreting results.	Surveys are more cost effective than interviews, obtain information from large numbers of people quickly and avoid bias from involvement of interviewers. On the other hand, questions must be subject to short answers, and elaboration is difficult. Respondents to mail out or online surveys are “self-selected,” which influences interpretation of results.
Community tours	Conduct a tour of the community. A tour can be conducted by bus, walking or a caravan of cars. Record comments during the tour. At the end of the tour meet for food and refreshments, ask questions and record the discussions.	This method is useful for land use or environmental planning processes, or when visits to areas of concern are important. Organization and transportation require care, and mobility-impaired people may not be able to participate.
Map making	Prepare maps with information about the reserve. Ask people to write on the maps at open houses or other display locations.	This method is useful for land use and environmental planning processes. The participants can share their knowledge of the community or what they would like to see changed. Maps help people to understand spatial relationships, and can build greater understanding of reserves.
Interviews	Conduct interviews of community members. Sessions can be video recorded or transcribed.	This method is useful for obtaining detailed information from knowledgeable community members, such as elders. Interviews are flexible, and allow exploration of points raised during the session. Interviews require dedicated time by staff (scheduling, conducting, transcribing and interpreting results) and the interviewee. Interviewers should be trained in proper technique.

Education and Outreach Methods

Method	How information is conveyed	When to use this method
Video	Record interviews with elders and other community members. Take footage of community events and the reserve lands. Produce an educational video to increase community awareness.	Videos are a great way to engage community members in learning about complex topics. Video can provide a record of community events, and can be displayed through CDs, Internet or television. Production and editing can be time-consuming and expensive. Technical skill and access to appropriate cameras and computer hardware and software are required.
Workshops	A workshop engages participants in discussions of issues, and can impart knowledge and explore concepts.	Workshops are valuable to building understanding about complex issues, obtaining in-depth input, and seeking agreement on solutions. Participants have time to discuss issues with each other and the workshop leaders. Workshop sessions sometimes follow an information presentation. Greater individual participation can be achieved in workshops than in large group presentations or open houses.

Education and Outreach Strategy Worksheet Sample

Step	Title	Description	Sample Question	Tip	FN Answer
1	Determine regulatory requirements	Before beginning the engagement process, determine if there are regulatory requirements associated with community involvement for the topic being considered.	<ul style="list-style-type: none"> Is a vote required? Is a meeting of members required? Is member discussion required? What role does the lands committee have? How much advance notice do community members need before the initiative is considered by Chief and Council? Is a mail out notice required? Is posting in public places required? 	<p>Look at the First Nation Land Code for answers. (e.g. LABRC Model Land Code Section 12 to 15)</p> <p>It would be prudent for the Lands Governance Director to make note of the types of laws that require community input, community approval or a ratification vote.</p> <p>Review the Centre for First Nation Governance's Strategic Communications Plan Template to assist you in developing a communication strategy</p>	
2	Prepare a plan for education and outreach	<p>The engagement plan can help to organize people involved in the education and outreach work, and can be used to seek approval of the plan from Council. The plan should describe the following points:</p> <ul style="list-style-type: none"> Purpose Target Audience Communication Methods Timeline Roles and Responsibilities Budget Evaluation Process 	<p><u>Purpose</u></p> <ul style="list-style-type: none"> What is the purpose of conducting an outreach and education program for this project? What does the initiative intend to achieve? How do we determine community values and obtain community knowledge? How do we reach a cross section of the target audience? 	<p>The Education and Outreach program may be mandatory according to a First Nation Land Code that is in effect.</p>	

Education and Outreach Strategy Worksheet Sample

Step	Title	Description	Sample Question	Tip	FN Answer
2	Prepare a plan for education and outreach	Ensure that these groups and individuals are well represented in the process.	<p><u>Target Audience</u></p> <ul style="list-style-type: none"> Who needs to be engaged? (Be specific) Who might be affected? Who has useful knowledge? 	<p>Could be entire community or specific groups (e.g. youth, elders, Third Parties, traditional users etc.)</p> <p>Engage youth by involving them in the project, planning youth only events or use social media etc.</p> <p>Focus on community members who have first-hand traditional understanding, speak the language and have experience of the land.</p>	
2	Prepare a plan for education and outreach	<p>Communication methods should be tailored to the target audience.</p> <p>In most situations, several methods should be used. Different methods may be needed for different target groups.</p> <p>Some people prefer receiving mail-outs or emails, whereas others like to attend community meetings.</p> <p>Review the effectiveness of previous community engagements.</p>	<p><u>Communication Methods</u></p> <ul style="list-style-type: none"> How will the outreach effort engage each target audience? Ask the community how they prefer to be engaged through a survey. What type of information you need from the community What information you want to share with the community Is the information clear and are the questions concrete and relevant? 	<p>Depends on:</p> <ul style="list-style-type: none"> Regulatory requirements Direction from Council Available funding Size, demography & location of the target audience Types of information you need from the community (“information in”) Types of information you want to share with the community (“information out”) The education level of the target audience, and their preferred method of communication <p>Consider setting up an advisory committee to review information before it is presented to community members.</p>	

Education and Outreach Strategy Worksheet Sample

Step	Title	Description	Sample Question	Tip	FN Answer
2	Prepare a plan for education and outreach	<p>Timelines will need to coincide with the timelines and activities specified in the First Nation Land Code</p> <p>Ensure that community members have sufficient time to provide comments, request revisions to documents, and complete surveys.</p>	<p><u>Timeline</u></p> <ul style="list-style-type: none"> When will each component of the strategy occur? When is fishing, hunting etc. season? 	<p>Do not plan community engagement when many community members will likely to be unavailable, such as during traditional fishing and hunting periods or holidays.</p> <p>Allow sufficient time to notify members before events, and include time to allow members to provide comments after events.</p>	
2	Prepare a plan for education and outreach	<p>A staff person or consultant will likely be needed to coordinate the communications activities.</p>	<p><u>Roles and Responsibilities</u></p> <ul style="list-style-type: none"> Who is responsible for implementing each part of the strategy? Do you need a communications staff person to coordinate the strategy? Which staff (e.g. Lands) needs to be involved? Should staff from other departments be involved? 	<p>Base staffing needs by size and complexity of the project.</p>	

Education and Outreach Strategy Worksheet Sample

Step	Title	Description	Sample Question	Tip	FN Answer
2	Prepare a plan for education and outreach	Develop a realistic budget for the strategy.	<p><u>Budget</u></p> <ul style="list-style-type: none"> What is the staff/consultant cost? What is the cost of printing material, mail outs, web-design etc.? What are event costs (e.g. hall rental)? What are the costs to collating, analysing, and reporting information from participants? 	<p>Organize events with other FN departments to make efficient use of scarce funds and staff.</p> <p>The funding for these activities can come from several possible sources:</p> <ul style="list-style-type: none"> FN operating budget, depending upon the structure of the First Nation Grants (foundations, corporations or government) Government funding A developer (through fees) or as project costs for community involvement in development review 	
2	Prepare a plan for education and outreach	Evaluation needs to determine whether or not your communication strategy is working or where it needs improvement.	<p><u>Evaluation Process</u></p> <ul style="list-style-type: none"> How will the success of the communications strategy be evaluated? 		
3	Approve the Plan	Ensure the plan gets the required review, budget and approval.	<ul style="list-style-type: none"> Who should review and approve the engagement plan? 	<ul style="list-style-type: none"> Whomever the LGD reports (Chief Operating Officer, Band Manager, Council) should review the engagement plan and seek their approval (as there will be a budget needed for this plan) The engagement plan may involve other FN departments and or Council, therefore, they should review and approve the plan. 	

Education and Outreach Strategy Worksheet Sample

Step	Title	Description	Sample Question	Tip	FN Answer
4	Implement the education and outreach program	<p>The “Education and Outreach Method” document provides a list of methods for conducting education and outreach activities.</p> <p>Talk to other departments or Lands Governance Directors from other First Nations to find what methods they have tried and how the methods work.</p>	<ul style="list-style-type: none"> What methods worked (Ask other departments)? Did serving food get people out to the meetings? Did we need to offer shuttles to events? 	<p>Determine the cost for Serving food and refreshments and weigh the turnout to the cost.</p> <p>Go to the LABRC website for more samples of communication tools.</p>	
5	Share the findings	<p>Share the results of the outreach and education program with staff in other departments, Chief and Council, the Lands Management Committee, and other people working on the law, policy or plan. Community members will also be interested in hearing the results.</p>	<ul style="list-style-type: none"> Who should we share the findings with? How will we share the findings? 	<p>For large projects that could affect many people and that have substantial community outreach, it may make sense to hold a final community meeting to present the results of the initiative.</p> <p>For smaller projects, a mail out to members or summary in the community newsletter may be sufficient.</p>	

Education and Outreach Strategy Worksheet Sample

Step	Title	Description	Sample Question	Tip	FN Answer
6	Evaluate the results	<p>Evaluation allows the First Nation's staff to learn from the successes and failures of an education and outreach initiative.</p> <p>Information on effectiveness can be obtained from surveys distributed at the end of community events to find out what participants liked and disliked about the event.</p>	<ul style="list-style-type: none"> What type of evaluation tool to use? What were the successes? What were the failures? 	<p>Debriefing meetings can be held with staff and consultants involved in the initiative.</p> <p>Record peoples' thoughts on what worked well and what did not. Produce a short report that documents the results of the evaluation.</p>	

FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT

EXECUTIVE SUMMARY

INTRODUCTION

The *Framework Agreement on First Nation Land Management* was signed by the Minister of Indian Affairs and Northern Development and 13 First Nations on February 12, 1996. One other First Nation was added as of December 1997. The Agreement was ratified by Canada through the *First Nations Land Management Act*, assented to June 17, 1999

The Agreement is an initiative by these 14 First Nations to take over the governance and management control of their lands and resources. This First Nation designed and driven *Framework Agreement* with Canada has expanded from the original 14 First Nation signatories to 84 First Nation Signatories in 2013. The *Framework Agreement* applies only to those First Nations who choose to ratify it.

The *Framework Agreement* is not a treaty and does not affect existing treaty or other constitutional rights of the First Nations.

The *Framework Agreement* provides the option to govern and manage reserve lands outside the *Indian Act*. The option to regain control of reserve land through a land code can only be undertaken with the consent of the community. A land code replaces approximately 30 sections of the *Indian Act*.

TAKING CONTROL OF LAND GOVERNANCE

A First Nation signatory to the *Framework Agreement* develops its land governance system by creating its own Land Code, drafting a community ratification process and entering into an individual Agreement with Canada. The specific steps are set out in the *Framework Agreement*:

The Land Code: Drafted and approved by the community, will be the basic land law of the First Nation and will replace the land management provisions of the Indian Act. The Minister of Indian Affairs and Northern Development will no longer be involved in the management and decision making of a First Nation's reserve lands. The Land Code does not have to be approved by the Minister or AANDC.

The Land Code is drafted by each First Nation and provides for the following matters:

- Identifies the reserve lands to be governed by the First Nation under its Land Code,
- Sets out the general rules and procedures for the use and occupation of these lands by First Nation members and others,
- Provides financial accountability for revenues from the lands (except oil and gas revenues, which continue under the Indian Oil and Gas Act),
- Provides the procedures for making and publishing First Nation land laws,
- Provides conflict of interest rules,
- Provides a community process to develop rules and procedures applicable to land on the breakdown of a marriage,
- Identifies a dispute resolution process,
- Sets out procedures by which the First Nation can grant interests in land or acquire lands for community purposes,
- Allows the delegation of certain land management responsibilities,
- Sets out the procedure for amending the Land Code,
- Deals with any other matter respecting the governance of First Nation reserve land and resources.

Individual Transfer Agreement: An Individual Agreement between each community and the Minister will be negotiated to deal with such matters as:

- The reserve lands to be managed by the First Nation,
- The specifics of the transfer of the administration of land from Canada to the First Nation,
- The transitional and operational funding to be provided by Canada to the First Nation for land governance.

Community Ratification Process: In order for the First Nation to assume control over its lands, the Land Code and the Individual Agreement must be ratified by the voting age members of the First Nation. All members of the First Nation who are at least 18 years of age, whether living off-reserve or on-reserve, have the right to vote on the Land Code and the Individual Agreement. The procedure for the community ratification process is developed by the community in accordance with the *Framework Agreement*.

Federal Legislation: Canada agreed to ratify the *Framework Agreement* by enacting federal legislation that is consistent with the *Framework Agreement*. The *First Nations Land Management Act* was enacted and given royal assent on June 17, 1999.

Verification: An independent person selected jointly by the First Nation and Canada, called a Verifier, confirms that the community ratification process and Land Code are consistent with the *Framework Agreement*. The Verifier monitors the community ratification process to ensure that the rules are followed.

Recognition of Land Governance Authority: If the community ratifies their own Land Code and the Individual Agreement, control over First Nation lands and resources are no longer be subject to the *Indian Act*, but recognized to be under the governance authority of the First Nation.

TITLE TO FIRST NATIONS

Reserve lands under the *Indian Act* are held by Her Majesty and are set apart for the use and benefit of a First Nation. This will not change under the *Framework Agreement*. These lands remain a federal responsibility under section 91(24) of the *Constitution Act, 1867*. In addition, the First Nation's land will be protected against future surrender for sale.

LEGAL STATUS AND POWERS OF FIRST NATIONS

The *Framework Agreement* provides First Nations with all the legal status and powers needed to govern and manage their lands and resources. While First Nations will not be able to sell their land, they will be able to lease or develop their lands and resources, subject to any limits imposed by their own community Land Code.

Law-Making Powers: A First Nation governing its lands under a Land Code will have the power to make laws in respect of the development, conservation, protection, management, use and possession of First Nation land. The Land Code does not authorize laws relating to the taxation of real or personal property. Such laws must be made separately pursuant to section 83 of the *Indian Act*. The First Nation's Council can also continue to make by-laws under section 81 of the *Indian Act*.

Land Management: The *Framework Agreement* provides the First Nation with all the powers of an owner in relation to its First Nation Land, except for control over title or the power to sell it. The First Nation's Council can manage land and resources, as well as revenues from the land and resources, in accordance with its Land Code.

Third Party Interests: Interests in First Nation land held by third parties, or by Canada, will continue in effect according to their terms and conditions under a Land Code. No new interests or licences may be acquired or granted except in accordance with the Land Code.

First Nation Expropriation: The First Nation will have the option to acquire lands for community purposes upon payment of fair compensation to those whose interests are affected.

Accountability: A Land Code will make provision for a First Nation to report to its members and to be accountable for the governance of their lands, resources and revenues.

Marriage Breakdown: A First Nation will be able make rules on the rights of spouses to interests in First Nation land if their marriage breaks down. The community must, within 12 months of passage of its Land Code, develop and enact rules and procedures on this topic. The new rules and procedures will ensure the equality of women and men.

Registration of Interests: All documents pertaining to land interests of a reserve will be recorded in the First Nation Land Registry System (FNLRS).

The FNLRS is:

- Electronic
- Provides for Instant Registration
- Priority based
- Paperless
- Backed by Regulation (Unlike the *Indian Act* registry system)

The FNLRS system and regulations are landmark achievements. These regulations made it possible for reserve to have greater land certainty, mortgageability, title insurance and drastically reduced or eliminated land transaction costs

PROTECTION OF FIRST NATION LAND

The preserving of the quantity and quality of existing First Nations lands is a fundamental principle of the *Framework Agreement*. Some aspects of this principle are summarized below:

Taxation and Seizure under Legal Process: The current exemption of reserve lands, and personal property situated on-reserve, will continue under the relevant provisions of the *Indian Act*.

Environmental Protection: A First Nation with a land code in effect will be required to develop an environmental protection regime. A First Nation will have the power to make environmental assessment and protection laws and will harmonize these laws with federal and respective provincial environmental laws.

Voluntary Exchange of Lands: A First Nation may decide that it is advantageous to exchange some of its First Nation lands for other lands. Provision can be made in its Land Code for a procedure to negotiate and approve such exchanges. An exchange of land cannot occur without the consent of the First Nation community.

No Provincial Expropriation: Under the *Framework Agreement* there can be no expropriation of First Nation land by a provincial or municipal government or agency.

Restricted Federal Expropriation: Canada's power to expropriate First Nation land is greatly restricted. That power can only be exercised with Cabinet approval and only when the expropriation is justified and necessary for a federal public purpose that serves

the national interest. Compensation must include provision for equivalent lands so that the land base of the First Nation is not diminished.

Enforcement: The First Nation will have full power to enforce its land and environmental laws and may enter into further agreements with other jurisdictions to assist in such enforcement. A First Nation can appoint its own Justice of the Peace or special prosecutor to try offences created under a Land Code or a First Nation law. First Nation laws may make provision for search and seizure, fines, imprisonment, restitution, community service or alternate means for achieving compliance with its laws.

CONTINUING FEDERAL RESPONSIBILITY

Canada will remain liable for and will indemnify a First Nation for losses suffered as a result of any act or omission by Canada, or its agents, that occurred before the Land Code comes into effect. After that date, the First Nation is responsible for its own acts or omissions in managing its lands.

DISPUTE RESOLUTION

The First Nation will establish its own processes for dealing with disputes in relations to its lands and resources. These can include mediation, neutral evaluation and arbitration. In the case of a disagreement between the First Nations and Canada on the meaning or implementation of the *Framework Agreement*, there are provisions in the *Framework Agreement* to resolve the dispute outside the courts.

LANDS ADVISORY BOARD AND RESOURCE CENTRE

The First Nations party to the *Framework Agreement* established a Lands Advisory Board and Resource Centre to assist them in implementing their own land governance regimes, including developing model land codes, laws, documents, agreements and management systems.

FIRST NATIONS INVOLVED

The following is a list of the 40 First Nations who signed the *Framework Agreement* and who have enacted Land Codes pursuant to the *Framework Agreement*.

BC

1. Beecher Bay
2. Kitselas
3. Leq' a: mel
4. Lheidli T'enneh
5. Matsqui
6. Musqueam
7. Seabird Island
8. Shx'wha:y Village
9. Skawahlook
10. Sliammon
11. Snaw Naw As (Nanoose)
12. Songhees
13. Squiala
14. Sumas
15. Tsawout
16. Tsawwassen^(a)

MB

1. Chemawawin
2. Opaskwayak
3. Swan Lake

17. Tsekani (McLeod Lake)
18. Ts'kw'aylaxw (Pavilion)
19. T'sou-ke
20. Tsleil-Waututh
21. Tzeachten
22. Westbank^(b)
23. We Wai Kai (Cape Mudge)
24. We Wai Kum (Campbell River)

SK

1. Kahkewistahaw
2. Kinistin
3. Muskeg Lake
4. Muskoday
5. Whitecap Dakota
6. Flying Dust

ON

1. Anishinaabeg of Naongashiing
2. Georgina Island
3. Henvey Inlet
4. Mississauga
5. Nipissing
6. Scugog Island
7. Whitefish Lake

(a) Now implementing treaty

(b) Now implementing full self-government

**Name First Nation
Land Code**

(Model)

Dated for Reference

June 28, 2017

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NAME FIRST NATION LAND CODE

Preamble

Whereas the Name First Nation has a profound relationship with the Land that is rooted in respect for the spiritual value of the Earth and the gifts of the Creator and has a deep desire to preserve their relationship with the Land;

And Whereas fourteen First Nations and Canada concluded a government-to-government *Framework Agreement on First Nation Land Management* on February 12, 1996;

And Whereas the *Framework Agreement on First Nation Land Management* provides the option to First Nations of withdrawing their reserve Land from the land management provisions of the *Indian Act* in order to exercise control over their Land and resources for the use and benefit of their Members;

And Whereas Canada ratified its commitment to the *Framework Agreement on First Nation Land Management* with the enactment of the *First Nations Land Management Act*, S.C. 1999, c.24;

And Whereas Name First Nation became a signatory on **[insert date]** to the *Framework Agreement on First Nation Land Management*, as Name First Nation wishes to govern its Land and resources under the *Name First Nation Land Code*, rather than having its Land and resources managed on its behalf under the *Indian Act*;

And Whereas the *Framework Agreement on First Nation Land Management* acknowledges that Canada's special relationship with Name First Nation will continue;

And Whereas the *Framework Agreement on First Nation Land Management* is ratified by Name First Nation through community approval of the *Name First Nation Land Code*;

**NOW THEREFORE, THIS LAND CODE IS HEREBY ENACTED AS THE
FUNDAMENTAL LAND LAW OF THE NAME FIRST NATION.**

PART 1 PRELIMINARY MATTERS

1. Definitions

Clarification

- 1.1. Any words or terms used in this *Land Code* which are defined in the *Framework Agreement* shall have the same meaning as in the *Framework Agreement*, unless the context otherwise requires.

Definitions

- 1.2. The following definitions apply in this *Land Code*:

“Canada” means Her Majesty the Queen in Right of Canada;

“Common-Law Partnership” means the relationship between two (2) persons who are cohabiting in a conjugal relationship;

“Community Land” means any Name First Nation Land in which all Members have a common interest;

“Council” means the Chief and Council of the Name First Nation or any successor elected government of the Name First Nation;

“Eligible Voter” means, for the purpose of voting in respect of Land matters under this *Land Code*, a Member who has attained eighteen (18) years of age on or before the day of the vote;

“Extended Family”, in respect of a person, means the person’s grandparent, uncle, aunt, first degree cousin, grandchild, and/or any other relation or relationship that Council may add by law;

“First Nation Lands Register” means the register established pursuant to clause 51 of the *Framework Agreement* and regulated by the *First Nations Land Registry Regulations*;

“*Framework Agreement*” means the *Framework Agreement on First Nation Land Management*, entered into between Canada and the signatory First Nations on February 12, 1996, and amended to include Name First Nation on **[insert date]**;

“Immediate Relatives”, in respect of a person, means the person’s parent, sister, brother, child, and Spouse;

“Individual Agreement” means the Individual Agreement providing for the specific of the transfer of administration made between Name First Nation and Canada in accordance with clause 6.1 of the *Framework Agreement*;

“Interest”, in relation to First Nation Land, means any Interest, right or estate of any nature in or to that Land, including a certificate of possession, certificate of entitlement, lease, easement, right of way, servitude, or profit à prendre, but does not include title to that Land;

“Land” or “Name First Nation Land” means any reserve Land that is subject to this *Land Code*;

“Lands Committee” means the Lands Committee established under part 6 of this *Land Code*;

“Licence” in relation to Name First Nation Land, means any right of use or occupation of that Land, other than an Interest in the Land;

“Member” means a person whose name appears or is entitled to appear on the Name First Nation Band Membership List;

“Name First Nation” means the Name First Nation and its Members;

“Spouse” means a person who is married to another, whether by a traditional, religious or civil ceremony, and includes a Spouse by Common-Law Partnership.

2. Interpretation

Interpretation

2.1 In this *Land Code*:

- (a) the *Land Code* shall be interpreted in a fair, large and liberal manner;
- (b) the word “shall” signifies an obligation that, unless this *Land Code* provides to the contrary, must be carried out as soon as practicable after this *Land Code* comes into effect or the event that gives rise to the obligation;

- (c) unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;
- (d) titles and headings have been inserted in the *Land Code* for convenience of reference only, and are not interpretive aids;
- (e) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine;
- (f) unless otherwise clear from the context, whenever the singular is used, it will include the plural, and the use of the plural includes the singular;
- (g) all references to a time period of days means consecutive days and not business days;
- (h) where the time limited for the doing of an act expires or falls on a Saturday or Sunday, or a First Nation, federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday;
- (i) where the time limited for the doing of an act in the Name First Nation administration building falls on a day when the office is not open, the act may be done on the next day that the office is open;
- (j) where there is a reference to a number of days or a number of days between two events, in calculating that number of days, the days on which the events happen are excluded; and
- (k) the principles set out in the Preamble to this *Land Code* may be used to interpret this *Land Code*.

Culture and traditions

- 2.2 The structures, organizations and procedures established by or under this *Land Code* shall be interpreted in accordance with the culture, traditions and customs of the Name First Nation.

Language

- 2.3 The language of the Name First Nation may be used to clarify the meaning of any provision in this *Land Code*, if the meaning of that provision is not otherwise clear in English.

Consistency with *Framework Agreement*

- 2.4 If there is an inconsistency or conflict between this *Land Code* and the *Framework Agreement*, the *Framework Agreement* will prevail to the extent of the inconsistency or conflict.

Paramountcy

- 2.5 If there is an inconsistency or conflict between this *Land Code* and any other enactment of the Name First Nation, including a by-law enacted under section 81 of the *Indian Act*, this *Land Code* prevails to the extent of the inconsistency or conflict.

Rights not affected

- 2.6 This *Land Code* does not change:
- (a) any Aboriginal, Treaty, inherent rights or other rights or freedoms that pertain now or in the future to the Name First Nation or its Members; or
 - (b) the fiduciary relationship between Canada and Name First Nation and its Members; or
 - (c) the by-law powers of Council pursuant to the *Indian Act*.

Lands and Interests affected

- 2.7 A reference to Land in this *Land Code* includes all the interests and rights, as well as the resources that belong to that Land to the extent these are under the jurisdiction of Canada and are part of that Land, and includes:
- (a) the water, beds underlying water, riparian rights, and renewable and non-renewable natural resources in and of that Land, to the extent that these are under the jurisdiction of Canada;
 - (b) all the Interests and Licences granted by Canada listed in the Individual Agreement; and

- (c) all the Interests and Licences granted by Name First Nation after this *Land Code* comes into effect.

Eligible Reserve Land

- 2.8 Only Land that is a reserve of the Name First Nation is eligible to be governed by Name First Nation as Land under this *Land Code*.

3. Authority to Govern

Origin of authority

- 3.1 The traditional teachings of the Name First Nation speak of the obligation of the people of the Name First Nation to care for and respect the Land and the magnificent wonders of Nature created on the Land. By enacting this *Land Code*, the Name First Nation is reclaiming this special responsibility.

Flow of authority

- 3.2 The authority of the Name First Nation to govern its Land and resources flows from the Creator to the people of the Name First Nation, and from the people to Council according to the culture, traditions, customs and laws of the Name First Nation.

4. Purpose

Purpose

- 4.1 The purpose of this *Land Code* is to set out the principles, rules and administrative structures that apply to Name First Nation Land and by which the Name First Nation will exercise authority over that Land in accordance with the *Framework Agreement*.

5. Description of Name First Nation Land

Name First Nation Land

- 5.1 The Name First Nation Land that is subject to this *Land Code* is that Land known as **[insert name/s of the reserve/s]** as listed in the Individual Agreement.

Description of Land

- 5.2 The Name First Nation Land includes all reserve Lands described in Appendix "A" of this *Land Code* and any other reserve Lands or Interests

of the Name First Nation that are made subject to this *Land Code* by resolution.

Additional Lands

- 5.3 Council shall hold a meeting of Members prior to amendment of the description of Name First Nation Land subject to this *Land Code* and Individual Agreement.

PART 2 FIRST NATION LEGISLATION

6. Law-Making Powers

Council may make Land laws

- 6.1 Council may, in accordance with this *Land Code*, make Land laws respecting:
- (a) the development, conservation, protection, management, use and possession of Name First Nation Land;
 - (b) Interests and Licences in relation to Name First Nation Land; and
 - (c) any matter necessary or ancillary to the making of Land laws in relation to the Name First Nation Land.

Examples of Land laws

- 6.2 For greater certainty, Council may make Land laws including:
- (a) regulation, control and prohibition of zoning, Land use, subdivision control and Land development;
 - (b) the creation, regulation and prohibition of Interests and Licences in relation to Name First Nation Land;
 - (c) environmental assessment and protection;
 - (d) provision of local services in relation to Name First Nation Land and the imposition of equitable user charges;
 - (e) enforcement of Name First Nation Land laws; and

- (f) provision of services for the resolution, outside the courts, of disputes in relation to Name First Nation Land.

Regulatory Instruments

- 6.3 For greater certainty, in addition to Land laws, Council may make other regulatory instruments, including rules, regulations, standards, codes and policies.

7. Law-Making Procedure

Introduction of Land laws

- 7.1 A proposed Land law may be introduced at a duly convened meeting of Council by:
 - (a) the Chief;
 - (b) a Councillor; or
 - (c) the representative of the Lands Committee, or other body or authority composed of Members, that may be authorized by Council to do so.

Rationalization of Proposed Land law

- 7.2 Any proponent shall submit a written explanation of the reason for the proposed Land law.

Lands Committee Review

- 7.3 Council shall refer a proposed Land law to the Lands Committee for review and comment.

Procedure upon receipt of Proposed Land law

- 7.4 Upon receipt of a proposed Land law, Council may:
 - (a) table the proposed Land law for further review or for enactment;
 - (b) request that the proponent provide further information or attend before a future meeting of Council to speak to the proposed Land law;

- (c) undertake or direct the preparation of a draft Land law concerning matters raised in the proposed Land law, for consideration by Council; or
- (d) reject the proposed Land law.

Tabling and posting
of proposed Land laws

7.5 Before a proposed Land law may be enacted, Council shall:

- (a) table the proposed Land law at a duly convened meeting of Council;
- (b) post it in public places and publish it online;
- (c) deposit the proposed Land law with the Lands Committee;
- (d) review comments and recommendations, provided by the Lands Committee; and
- (e) take any other steps to give notice of the proposed Land law that Council may consider appropriate.

Urgent matters

7.6 Council may enact a Land law without the preliminary steps ordinarily required, if Council is of the opinion that the Land law is needed urgently for public health and safety or to protect Name First Nation Land or the Members however this Land law expires one hundred and twenty (120) days after its enactment unless re-enacted in accordance with the required preliminary steps.

Approval of Land law

7.7 Subject to this *Land Code*, a Land law is approved by a quorum of Council at a duly convened meeting of Council open to the Members.

Certification of Land laws

7.8 The original copy of any approved Land law or resolution concerning Name First Nation Land shall be signed by a quorum of Council.

Land laws taking effect

7.9 A Land law enacted by Council takes effect on the date of its enactment or such later date as specified in the Land law.

8. Publication of Land Laws

Publication

8.1 A Land law shall be:

- (a) published in the minutes of the Council meeting at which it was enacted;
- (b) posted, as soon as practicable after enactment, in a location within the administrative office of Name First Nation accessible to all Members;
- (c) published online; and
- (d) published by any additional method as Council may consider appropriate.

Registry of Land laws

8.2 Council shall cause to be kept, at the administrative offices of the Name First Nation, a register of all Land laws and resolutions, including Land laws and resolutions that have been repealed or are no longer in force.

Copies for any Person

8.3 Any person may obtain a copy of a Land law or resolution.

9. Enforcement of Land Laws

Enforceability of Land laws

9.2 To enforce its *Land Code* and its Land laws, Name First Nation shall have the power to:

- (a) establish offences that are punishable on summary conviction;
- (b) provide for fines, imprisonment, restitution, community services, and alternate means for achieving compliance;
- (c) establish comprehensive enforcement procedures consistent with federal law, including inspections, searches, seizures and

compulsory sampling, testing and the production of information; and

- (d) enter into agreements with provincial or municipal governments with respect to any matter concerning the enforcement of its *Land Code* and Land laws.

Prosecuting Offences

9.2 For the purpose of prosecuting offences, Name First Nation may:

- (a) retain its own prosecutor; and
- (b) make laws with respect to the appointment and authority of justices of the peace.

PART 3 COMMUNITY MEETINGS AND APPROVALS

10. Participation of Members

Participation of Members

10.1 Every Member is entitled to participate in the meeting of Members.

11. Participation of Eligible Voters

Participation of Eligible Voters

11.1 Every Eligible Voter is entitled to participate in community approvals.

12. Meeting of Members and Community Approval Procedure

Notice of meeting

12.1 Council shall give written notice of the meeting of Members and any matter requiring community approval at a meeting of Members, and include in the notice:

- (a) the date, time and place of the meeting;
- (b) a brief description of the matter to be discussed;

- (c) a brief description of any matter that requires community approval; and
- (d) other information and material that Council considers appropriate.

Manner of notice

12.2 The notice shall be given to the Members before the meeting or vote, by:

- (a) posting the notice in public places;
- (b) providing the notice to Members and taking reasonable steps to locate and inform Members who reside on and off-reserve;
- (c) posting the notice online; and
- (d) additional methods Council considers appropriate.

Permission of Council

12.3 A person, other than a Member, authorized by Council may attend a meeting of Members.

Informed Decision

12.4 Council may schedule more than one meeting of Members as may be necessary to ensure that Members are well informed before making a decision on a proposed Land law or Land matter.

13. Community Meetings of Members

Community Meetings

13.1 Council shall call a meeting of Members prior to:

- (a) declaring Land or an Interest to be subject to this *Land Code*;
- (b) enacting a Land law respecting a community plan or subdivision plan;
- (c) any development affecting a heritage site or an environmentally sensitive property;
- (d) enacting a Land law respecting environmental assessment and protection;

- (e) enacting a Land law respecting the transfer and assignment of rights and Interests in Name First Nation Land;
- (f) enacting a Land law respecting matrimonial real property on reserve;
- (g) enacting a Land law respecting the rate and criteria for the payment of fees or rent for Name First Nation Land;
- (h) enacting a Land law respecting the rights and procedures on community expropriation; and
- (i) respecting any other matter, Land law or class of law that Council, by Resolution, declares to be subject to this section.

No Quorum

13.2 No quorum or minimum level of participation is required at a meeting of Members.

14. Community Approval

Community approval

14.1 Community approval shall be obtained for the following:

- (a) any master Land use plan;
- (b) any new grant or disposition of an Interest or Licence in any Name First Nation Land exceeding a term of thirty five (35) years;
- (c) any renewal of a grant or disposition of an Interest or Licence in any Name First Nation Land that extends the original term beyond thirty five (35) years;
- (d) any grant or disposition of any non-renewable natural resources on any Name First Nation Land exceeding a term of five (5) years;
- (e) any deletion of a heritage site;
- (f) any voluntary exchange of Name First Nation Land; and

- (g) any other matter, Land law or class of law that Council, by resolution, declares to be subject to this section.

Utility Permits Excepted

- 14.2 Community approval is not required for an easement, right of way or permit granted by Council for utilities, including telecommunications, water, electricity, natural gas, sewer services and ancillary services.

Method of Voting

- 14.3 Community approval shall be obtained by one or more of the following methods:

- (a) establishing polling locations;
- (b) show of hands;
- (c) mail-in ballot;
- (d) alternative voting methods, such as electronic and telephone voting; or
- (e) any other method outlined in voting policies.

Quorum

- 14.4 In order to obtain a quorum for community approval, at least ten percent (10%) of Eligible Voters shall participate.

Approval by Majority

- 14.5 For community approvals, a matter shall be considered approved if a majority of fifty percent plus one (50%+1) of the Eligible Voters vote to approve the matter.

Second Community Approval Vote

- 14.6 If a quorum was not obtained at a first community approval, a second community approval vote may be called without any quorum requirement.

Approval by Majority

- 14.7 A matter shall be considered approved at a second community approval vote, if a majority of fifty percent plus one (50%+1) of the Eligible Voters vote to approve the matter.

15. Ratification Votes

Community Approval by Ratification vote

15.1 Community approval by ratification vote shall be obtained for an amendment to this *Land Code*.

Exceptions

15.2 A community approval by ratification vote is not required for:

- (a) an amendment to the description of Land of this *Land Code*;
- (b) revisions to this *Land Code* made pursuant to section 47; and
- (c) an amendment to, or renewal of, the Individual Agreement.

Ratification process

15.3 Any ratification vote required under this *Land Code* may be conducted in a similar manner as the *Name First Nation Community Ratification Process*, which was used to ratify this *Land Code*.

No verifier

15.4 A verifier is not required in any ratification vote.

Quorum

15.5 In order to obtain a quorum for a community approval by ratification vote under this *Land Code* at least twenty percent (20%) of Eligible Voters shall register to vote.

Approval by majority

15.6 A matter shall be considered approved at a ratification vote if a majority of fifty percent plus one (50%+1) of the registered Eligible Voters vote to approve the matter.

Second Ratification Vote

15.7 If a quorum was not obtained at a first ratification vote, a second ratification vote may be called.

Second Ratification Vote Quorum

15.8 In order to obtain a quorum for community approval for a second attempt at a ratification vote under this *Land Code* at least ten percent (10%) of Eligible Voters shall register to vote.

Approval by Majority

15.9 A matter shall be considered approved at a second ratification vote if a majority of fifty percent plus one (50%+1) of the registered Eligible Voters vote to approve the matter.

Policies Consultation, Approval
and Ratification

15.10 For greater certainty, Council may make Land laws or policies:

- a) for meetings of Members;
- b) for community consultations;
- c) for community approvals;
- d) for ratification votes; and
- e) respecting any other matter, that Council, by resolution, declares to be subject to part 3 of this *Land Code*.

PART 4 PROTECTION OF LAND

16. Expropriation

Acquisition by Mutual Agreement

16.1 The Name First Nation may expropriate an Interest or Licence in Name First Nation Land, provided that it has made a good faith effort to acquire, by mutual agreement, the Interest or Licence.

Rights and Interests
that may be expropriated

16.2 An Interest or Licence in Name First Nation Land, or in any building or other structure on that Land, may only be expropriated by Name First Nation in accordance with the *Framework Agreement* and any Land law enacted for the purpose of establishing the rights and procedures for community expropriations.

Community purposes

16.3 A community expropriation shall only be made for necessary community works or other Name First Nation purposes, including a fire hall, sewage or water treatment facility, community center, public works, utilities, roads, schools, daycare facility, hospitals, health-care facility, and retirement home.

Expropriation Land laws

16.4 Before proceeding to make any community expropriations in accordance with this *Land Code* and the *Framework Agreement*, Council shall enact a Land law respecting the rights and procedures for community expropriations, including provisions respecting:

- (a) the taking of possession of the Interest or Licence;
- (b) transfer of the Interest or Licence;
- (c) notice of expropriation and service of the notice of expropriation;
- (d) entitlement to compensation;
- (e) determination of the amount of compensation; and
- (f) the method of payment of compensation.

Public report

16.5 Before Name First Nation expropriates an Interest or Licence, it shall make a public report on the reasons justifying the expropriation.

Member notification

16.6 In the case of an expropriation of a Member's Interest in Name First Nation Land, the affected Member or Members shall receive notification of the expropriation within a reasonable time prior to the release of the public report.

Rights that may not
be expropriated

16.7 In accordance with clause 17.6 the *Framework Agreement*, an Interest of Canada or the province in Name First Nation Land is not subject to expropriation by the Name First Nation.

Compensation for
rights and Interests

16.8 Name First Nation shall, in accordance with its Land laws and the *Framework Agreement*:

- (a) serve reasonable notice of the expropriation on each affected holder of the Interest or Licence to be expropriated; and
- (b) pay fair and reasonable compensation to the holders of the Interest or Licence being expropriated.

Compensation calculations

16.9 In accordance with clause 17.4 the *Framework Agreement*, Name First Nation shall calculate the total value of the compensation under this section based on the heads of the compensation set out in the *Expropriation Act (Canada)*.

Market value

16.10 The “market value” of an expropriated Interest or Licence is equal to the amount that would have been paid for the Interest or Licence if it had been sold by a willing seller to a willing buyer under no duress.

Neutral evaluation to Resolve Disputes

16.11 The resolution of disputes concerning the right of the Name First Nation to expropriate shall be determined by neutral evaluation, in the same manner as provided in part IX of the *Framework Agreement*, and the sixty (60) day period referred to in the *Framework Agreement* shall be applied, as appropriate in the circumstance, by the neutral evaluator.

Arbitration to resolve
Disputes

16.12 The resolution of the following disputes shall be determined by arbitration, in the same manner as provided in part IX of the *Framework Agreement*:

- (a) disputes concerning the right of a holder of an expropriated Interest or Licence to compensation; and
- (b) disputes concerning the amount of the compensation.

17. Voluntary Exchange of Name First Nation Land

Conditions for a land exchange

17.1 The Name First Nation may agree with another party to exchange a parcel of Name First Nation Land for a parcel of land from that other party in accordance with this *Land Code* and the *Framework Agreement*.

No effect

17.2 A land exchange is of no effect unless it receives community approval in accordance with this *Land Code* and with clause 14.2 of the *Framework Agreement*.

Land to be received

17.3 No land exchange may occur unless the land to be received in the exchange meets the following conditions:

- (a) it shall be equal to or greater than the area of the Name First Nation Land to be exchanged;
- (b) it shall be at least comparable to the appraised value of the Name First Nation Land; and
- (c) it shall become a reserve and Name First Nation Land subject to this *Land Code*.

Negotiators

17.4 The person who will have authority to negotiate a land exchange agreement on behalf of the Name First Nation shall be designated by resolution.

Additional land

17.5 The Name First Nation may negotiate to receive other compensation, such as money or other additional parcels of land, in addition to the parcel which is intended to become a reserve. Such other parcels of land may be held by the Name First Nation in fee simple or some other manner.

Federal Consent

17.6 Before the Name First Nation concludes a land exchange agreement, it shall receive a written statement from Canada clearly stating that Canada:

- (a) consents to set apart as a reserve the land to be received in exchange, as of the date of the land exchange or such later date as Council may specify; and
- (b) consents to the manner and form of the exchange as set out in the exchange agreement.

Community notice

17.7 Once negotiations on the land exchange agreement are concluded, Council shall provide the following information to Eligible Voters ~~at least forty two (42) days~~ before the vote:

- (a) a description of the Name First Nation Land to be exchanged;
- (b) a description of the land to be received in the exchange;
- (c) a description of any other compensation to be exchanged;
- (d) a report of a certified land appraiser setting out that the conditions for the land to be received in the exchange have been met;
- (e) a copy or summary of the exchange agreement; and
- (f) a copy of Canada's consent.

Process of land exchange

17.8 The land exchange agreement shall provide that:

- (a) the other party to the exchange must transfer to Canada the title to the land which is to be set apart as a reserve;
- (b) Council must pass a resolution authorizing Canada to transfer title to the Name First Nation Land being exchanged, in accordance with the exchange agreement;
- (c) a copy of the instruments transferring title to the relevant parcels of land must be registered in the First Nation Lands Register; and

- (d) the land to be set apart as a reserve has been subject to an environmental audit, and clearance or remediation as necessary, or that Council is satisfied that adequate provisions have been made for such clearance or remediation at no cost to Name First Nation, and with full indemnification to Name First Nation.

PART 5 ACCOUNTABILITY

18. Conflict of Interest or Appearance of Conflict of Interest

Application of rules

18.1 The conflict of interest rules in this *Land Code* apply to the following persons:

- (a) each member of Council who is dealing with any matter before Council that is related to Name First Nation Land;
- (b) each person who is an employee of the Name First Nation dealing with any matter that is related to Name First Nation Land;
- (c) each member of the Dispute Resolution Panel; and
- (d) each person who is a member of a board, committee or other body of the Name First Nation dealing with any matter that is related to Name First Nation Land.

Duty to report and abstain

18.2 If there is any actual or apparent financial, familial or personal conflict of interest in the matter being dealt with, the person:

- (a) shall disclose the interest to Council, or the board, committee or other body as the case may be;
- (b) shall not take part in any deliberations on that matter or vote on that matter; and
- (c) shall remove themselves from the proceedings.

Apparent conflict of interest

- 18.3 A person has an apparent conflict of interest if there is a reasonable perception, which a reasonably well informed person could properly have, that the person's ability to deliberate or decide on the matter has been affected by his or her private interest or the private interest of an Immediate Relative.

Inability to act

- 18.4 If the Board, committee or other body is unable to act due to a conflict of interest, the matter shall be referred to Council.

Meeting of Members

- 18.5 If Council is unable to vote on a matter due to a conflict of interest, Council may refer a matter, a proposed Land law or resolution to a community meeting of Members and, if a quorum of Eligible Voters is present, a majority of the Eligible Voters present at the meeting may approve the matter, Land law or resolution.

Specific Conflict situations

- 18.6 No Immediate Relatives and not more than two (2) members from the same Extended Family shall be concurrent members of an appointed board, committee or other body dealing with any matter that is related to Name First Nation Land. Council or any other elected board, committee or body is exempt from this rule.

Disputes

- 18.7 The Panel has the jurisdiction to hear and decide on any matter concerning a conflict of interest.

Other laws

- 18.8 For greater certainty, Council may develop a policy or enact laws to further implement this section.

19. Financial Management

Application

- 19.1 This section applies only to financial matters relating to Name First Nation Land and natural resources.

Financial policies

19.2 Council may, in accordance with this *Land Code*, develop, adapt or adopt financial management laws or policies, including:

- (a) regulating the receipt, management and expenditure of moneys, including transfer payments, all capital and revenue moneys received from Canada, all Land revenue, and moneys received from a grant or disposition of any Interest or Licence in relation to Name First Nation Land and natural resources;
- (b) managing financial records and accounts;
- (c) preparing financial statements and audits;
- (d) preparing and implementing budgets and annual presentation of budgets;
- (e) determining the general investment strategy;
- (f) contract notes, loans and other indebtedness;
- (g) establishing fees, fines, charges and levies; and
- (h) establishing and maintaining a recordkeeping system that ensures confidentiality, security of records and document retention.

Administrative structure

19.3 Council shall establish the administrative structure:

- (a) to implement all financial policies and procedures;
- (b) to oversee the day to day operational responsibilities for managing moneys related to Name First Nation Land and natural resources;
- (c) to ensure the accuracy of the accounting records;
- (d) to reconcile, review and approve bank statements;
- (e) to present the annual budgets to Members;
- (f) to present annually an audit of the financial statements to the Members; and

- (g) to prepare the annual report to Members.

20. Annual Report

Publish annual report

- 20.1 Council, on behalf of the Name First Nation, shall publish an annual report on Land matters.

Contents

- 20.2 The annual report shall include:

- (a) an annual review of Name First Nation Land and natural resources management;
- (b) annual budget;
- (c) a copy and explanation of the audit as it applies to Name First Nation Land and natural resources; and
- (d) any other matter as determined by Council or Lands Committee.

21. Access to Information

Access

- 21.1 Any person may, during normal business hours at the main administrative office of the Name First Nation, have reasonable access to:
- (a) the register of Land laws;
 - (b) the auditor's report; and
 - (c) the annual report on Land and natural resources.

Copies for Members

- 21.2 Any Member may obtain a copy of the auditor's report or annual report.

Access to records

- 21.3 Any person authorized by Council may inspect the financial records of Name First Nation related to Name First Nation Land.

PART 6
LAND AND NATURAL RESOURCES ADMINISTRATION

22. Land Staff

Administration

- 22.1 Council may delegate administrative authority to staff to carry out functions necessary for day to day administrative operations of Land and natural resources.

23. Lands Committee

Lands Committee
established

- 23.1 The Lands Committee is hereby established for the following purposes:

- (a) assist Council with the development of the Land administration system;
- (b) advise Council and its staff on matters respecting Name First Nation Land;
- (c) recommend Land laws, resolutions, policies and practices respecting Name First Nation Land to Council;
- (d) consult with Members and non-Members on Name First Nation Land issues, and to make recommendations on the resolution of those issues to Council;
- (e) oversee community meetings of Members, community approvals and ratification votes; and
- (f) perform such other duties as may be delegated or assigned by resolution or Land law under this *Land Code*.

Process to
Implement Land laws

- 24.2 The Lands Committee shall, within a reasonable time after this *Land Code* takes effect, recommend to Council a community process to develop and implement Land laws.

Internal procedures

- 24.3 The Lands Committee may establish rules for the procedure at its meetings and generally for the conduct of its affairs, not inconsistent with those established by Council.

24. Implementation of the Lands Committee

First Lands Committee

- 24.1 Immediately upon the coming into effect of this *Land Code*, Council shall select a Lands Committee to serve for a term of up to three (3) years until a policy governing the Lands Committee comes into force.

Policy Governing Successors to
the First Lands Committee

- 24.2 As soon as possible after the coming into force of this *Land Code*, Council, in consultation with the Lands Committee, shall develop a policy providing for Member involvement in the selection, election, or appointment of Eligible Voters to serve on the Lands Committee, and dealing with such matters as number of members, composition, eligibility, Chair and Deputy Chair, functions of the Chair, term of office, remuneration, conditions of service, termination, vacancies arising during term and such other matters as Council deems appropriate to the operation of the Lands Committee.

**PART 7
INTERESTS AND LICENCES IN LAND****25. Revenue from Land and Natural Resources**Determination of
fees and rent

- 25.1 The Lands Committee shall, subject to the approval of Council, establish the process and recommend any Land laws, rules and policies for determining:
- (a) the fees and rent for Interests and Licences in Name First Nation Land;
 - (b) the fees for services provided in relation to any Name First Nation Land; and

- (c) the fees and royalties to be paid for the taking of natural resources from Name First Nation Land.

26. Registration of Interests and Licences

Enforcement of Interest and Licences

- 26.1 An Interest or Licence in Name First Nation Land created or granted after this *Land Code* takes effect is not enforceable unless it is registered in the First Nation Lands Register.

Registration of Consent or approval

- 26.2 An instrument granting an Interest or Licence in Name First Nation Land that requires the consent of Council, or community approval, shall include a form of certificate indicating that the applicable consent or approval has been obtained.

Duty to deposit

- 26.3 A copy of the following instruments shall be deposited in the First Nation Lands Register:
 - (a) any grant of an Interest or Licence in Name First Nation Land;
 - (b) any transfer or assignment of an Interest or Licence in Name First Nation Land;
 - (c) every Land use plan, subdivision plan or resource use plan;
 - (d) every Land law: and
 - (e) this *Land Code* and any amendment to this *Land Code*.

27. Limits on Interests and Licences

All dispositions in writing

- 27.1 An Interest or Licence in Name First Nation Land may only be created, granted, disposed of, assigned or transferred by a written document made in accordance with this *Land Code* and any relevant Land law.

Standards

- 27.2 Council may establish mandatory standards, criteria and forms for Interests and Licences in Name First Nation Land.

Improper
Transactions void

- 27.3 A deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which the Name First Nation, a Member or any other person purports to grant, dispose of, transfer or assign an Interest or Licence in Name First Nation Land after the date this *Land Code* takes effect is void if it contravenes this *Land Code*.

28. Existing InterestsContinuation of
existing Interests and Licences

- 28.1 Any Interest or Licence in Name First Nation Land that existed when this *Land Code* takes effect will, subject to this *Land Code*, continue in force in accordance with its terms and conditions.

Voluntary replacement of
existing Interests and Licences

- 28.2 For greater certainty, Interests or Licences previously issued under the *Indian Act* shall continue in effect after the coming into force of this *Land Code* unless the Member or non-Member voluntarily agrees to have the Interest or Licence replaced by a new Interest or Licence.

Replacing the role of the Minister

- 28.3 Immediately upon the coming into force of this *Land Code*, Canada transfers to Name First Nation all the rights and obligations of Canada as grantor in respect of existing Interests and Licences in or in relation to Name First Nation Land.

Unregistered Interests

- 28.4 A policy shall be established as soon as practical after the coming into force of the *Land Code* to accommodate unregistered Interests.

29. New Interests and LicencesAuthority to make
Dispositions

- 29.1 Council may, on behalf of Name First Nation, grant:

- (a) Interests and Licences in Name First Nation Land, including certificates of possession, member allocations, leases, permits, easements and rights-of-ways; and
- (b) Licences to take natural resources from Name First Nation Land, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances.

Conditional grant

29.2 The grant of an Interest or Licence may be made subject to the satisfaction of written conditions.

Role of the Lands Committee

29.3 The Lands Committee shall advise Council on the granting of Interests or Licences and may be authorized to act as a delegate of Council under this section.

30. Interests of Non-Members

Grants to non-Members

30.1 A transfer or other disposition of all or any part of an Interest or Licence in Name First Nation Land to a person who is not a Member shall not be effective unless and until it is confirmed by a resolution of Council.

31. Certificates of Possession or Member Interests

Application

31.1 For greater certainty, certificates of possession or Member Interests previously issued under the *Indian Act* shall continue to exist after the coming into force of this *Land Code*.

32. Allocation of Land to Members

Policies and procedures for allocation of Land

32.1 Subject to the provisions of this *Land Code*, Council in consultation with the Lands Committee shall establish Land laws, policies and procedures for the allocation of Land to Members.

Allocation

32.2 Council may, in accordance with this *Land Code*:

- (a) allocate Land to Members; or
- (b) issue a certificate for an interest to a Member for Land allocated to that Member.

No allocation of Land
to non-Members

32.3 A person who is not a Member is not entitled to be allocated Land or to hold a permanent Interest in Name First Nation Land.

33. Transfer and Assignment of Interests

Transfer of Member Interest

33.1 A Member may transfer or assign an Interest in Name First Nation Land to another Member without community approval or the consent of Council.

Consent of Council

33.2 There shall be no transfer or assignment of an interest in Name First Nation Land without the written consent of Council, except for:

- (a) transfers between Members;
- (b) transfers that occur by operation of law, including transfers of estate by testamentary disposition; and
- (c) transfers in accordance with the matrimonial real property on reserve law.

34. Limits on Mortgages and Seizures

Protections

34.1 In accordance with the *Framework Agreement*, the following provisions of the *Indian Act*, as amended from time to time, continue to apply to the Name First Nation Land:

- (a) section 29;
- (b) section 87;

- (c) Sub-section 89(1); and
- (d) Sub-section 89(2).

Mortgage of Allocated Land

34.2 The Interest of a Member in First Nation Land may be subject to a mortgage or charge, but only to a Member or, the Name First Nation with the express written consent of Council.

Mortgages of leasehold Interests with consent

34.3 A leasehold Interest may be subject to charge or mortgage, but only with the express written consent of Council.

Time limit

34.4 The term of any charge or mortgage of a leasehold Interest shall not exceed the term of the lease.

Default in mortgage

34.5 In the event of default in the terms of a charge or mortgage of a leasehold Interest, the leasehold Interest is not subject to possession by the chargee or mortgagee, foreclosure, power of sale or any other form of execution or seizure, unless:

- (a) the charge or mortgage received the written consent of Council;
- (b) the charge or mortgage was registered in the First Nation Lands Register; and
- (c) a reasonable opportunity to redeem the charge or mortgage is given to Council on behalf of Name First Nation.

Power of redemption

34.6 Subject to prior redemption by the lessee or Member, Council may redeem the charge or mortgage from the charger or mortgagor in possession and shall thereupon acquire all the rights and Interests of the charger or mortgagor and of the lessee or Member for all purposes after the date of the redemption.

Waiver of redemption

- 34.7 Council may waive its right to redemption for any charge or mortgage of a leasehold Interest or Licence.

35. Residency and Access Rights

Right of residence

35.1 The following persons have a right to reside on Name First Nation Land:

- (a) Members and their Spouses and children;
- (b) Members with a registered Interest in Name First Nation Land;
- (c) any invitee of a Member referred to in clause (a) or (b);
- (d) lessees and permittees, in accordance with the provisions of the granting instrument; and
- (e) a person authorized in writing by Council, Lands Committee or by a Name First Nation Land law.

Right of Access

35.2 The following persons have a right of access to Name First Nation Land:

- (a) a lessee and his or her invitees;
- (b) a person granted a right of access under a permit;
- (c) Name First Nation Members and their Spouses and children and his or her invitees;
- (d) a person who is authorized by a government body or any other public body, established by or under an enactment of the Name First Nation, Parliament or the province to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey provided that the person received written authorization from Council; or
- (e) a person authorized in writing by Council or Lands Committee or by a Name First Nation Land law.

Public access

- 35.3 Any person may have access to Name First Nation Land for any social or business purposes, if:
- (a) the person does not trespass on occupied Land and does not interfere with any Interest in Land;
 - (b) the person complies with all applicable laws; and
 - (c) no resolution has been enacted barring that person.

Use of Roads

- 35.4 Any person may have the right of access to Name First Nation public roads, subject to this *Land Code* and Land laws.

Trespass

- 35.5 Any person, who resides on, enters or remains on Name First Nation Land, other than in accordance with a residence or access right under this *Land Code*, is guilty of an offence.

Civil remedies

- 35.6 All civil remedies for trespass are preserved.

36. Transfers on Death*Indian Act* application

- 36.1 Until Name First Nation exercises jurisdiction in relation to wills and estates, the provision of the *Indian Act* dealing with wills and estates shall continue to apply with respect to Interests in Name First Nation Land.

Registration of transfer

- 36.2 A person who receives an Interest in Name First Nation Land by testamentary disposition or succession in accordance with a written decision of the Minister, or his or her designate, pursuant to the *Indian Act*, is entitled to have that Interest registered in the First Nation Lands Register.

Disposition of Interest

- 36.3 If no provision has been made by the deceased Member of the disposition of the Interest to another Member, the following rules apply:

- (a) the Minister or his or her delegate may make application to Council requesting that an instrument evidencing lawful possession or occupation of Name First Nation Land be issued; or
- (b) a certificate for an Interest or other instrument may be issued in accordance with procedures established by Council, or application of the Minister or his or her delegate, if the beneficiary or purchaser is a Member of the Name First Nation.

37. Matrimonial Real Property on Reserve Law

Development of rules
and procedures

- 37.1 Council shall enact a matrimonial real property on reserve law providing rules and procedures applicable on the breakdown of a marriage, to:
- (a) the use, occupancy and possession of Name First Nation Land;
 - (b) the division of Interests in that Land; and
 - (c) the division of the value of improvements in that Land.

Enactment of rules
and procedures

- 37.2 The rules and procedures contained in the matrimonial real property on reserve law shall be developed by the Lands Committee in consultation with the Members.

Enactment deadline

- 37.3 The matrimonial real property on reserve law shall be enacted within twelve (12) months from the date this *Land Code* takes effect.

General principles

- 37.4 For greater certainty, the rules and procedures developed by the Lands Committee under this section shall respect the following general principles:
- (a) each Spouse should have an equal right to possession of their matrimonial home;

- (b) each Spouse should be entitled to an undivided half Interest in their matrimonial home, as a tenant in common;
- (c) the rules and procedures shall not discriminate on the basis of sex; and
- (d) only Members are entitled to hold a permanent Interest in Name First Nation Land or a charge against a permanent Interest in Name First Nation Land.

Interim Rules

- 37.5 The **[Name of the MRP]** enacted under the *Family Homes on Reserve and Matrimonial Interests or Rights Act* shall serve as the interim rules and its provisions regarding breakdown of marriage shall be repealed upon the coming into force of the matrimonial real property on reserve law enacted in accordance with the *Land Code*.

PART 8 DISPUTE RESOLUTION

38. Purpose

Intent

- 38.1 The intent of this part is to ensure that all persons entitled to possess, reside upon, use or otherwise occupy Name First Nation Land do so harmoniously with due respect to the rights of others and of Name First Nation and with access to Name First Nation procedures to resolve disputes.

Purpose

- 38.2 The purpose of these rules is to enable the parties to a dispute to achieve a just, speedy and inexpensive determination of matter in dispute, taking into account the values which distinguish dispute resolution from litigation.

39. Disputes

Dispute Prevention

- 39.1 The parties shall use best efforts to prevent disputes from arising and shall consider the use of dispute resolution processes at the earliest possible stage of any conflict.

Disputes Prior
to Land Code

39.2 Disputes that arose before the *Land Code* takes effect could also be referred to this part.

Decision of Council or Lands Committee

39.3 If a Member, or a non-Member with an Interest in Name First Nation Land, has a dispute with respect to a decision of Council or the Lands Committee, the person shall first attempt to resolve that dispute with Council or the Lands Committee, before referring the dispute to the Panel.

Settle a Dispute

39.4 Nothing in this part shall be construed to limit the ability of any person to reach agreement to settle a dispute without recourse to this part.

Settlement Agreement

39.5 Any settlement reached through dispute resolution shall not be legally binding until it has been reduced to writing and properly executed by, or on behalf of, the parties.

Contractual Agreement

39.6 A contractual agreement made under this *Land Code* may establish that the dispute resolution outlined in this *Land Code* and its Land laws may be mandatory or may to some degree prescribe for alternate dispute resolution processes if there is consensual agreement by the parties involved in that agreement. The dispute resolution clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract.

Variation of Rules

39.7 The parties to a dispute to which these rules apply may to some degree, modify, vary or amend these rules by consensual agreement in writing, and notify the Panel in writing.

Civil Remedies

39.8 For greater certainty, nothing in this part shall be construed to prevent a party to a dispute from, at any stage of dispute resolution, applying to have the dispute resolved in a court of competent jurisdiction.

Challenge to Validity of Law

39.9 For greater certainty, nothing in this part shall be construed to prevent a party to a dispute from challenging the validity of a Land law, but such a challenge may be heard only in a court of competent jurisdiction.

40. Processes

Staged Processes

40.1 Name First Nation intends that a dispute in relation to Name First Nation Land, except as otherwise provided, may progress through the following stages:

- (a) facilitated discussions;
- (b) negotiation;
- (c) mediation; and
- (d) final arbitration by the Dispute Resolution Panel.

Procedure to File a Dispute

40.2 A person who wishes to resolve a dispute with another person or Name First Nation in relation to the use or occupation of Name First Nation Land may file a written notice of dispute setting out:

- (a) the nature of the dispute;
- (b) a statement outlining the facts and supporting arguments of the dispute claim; and
- (c) the relief that is sought.

Termination of Processes

40.3 Facilitated discussions, negotiations and mediations may be suspended upon any of the following occurrences:

- (a) the parties reach an agreement;
- (b) one of the parties refuses to continue with facilitated

discussions, negotiations or mediation;

- (c) the mediator assesses that nothing meaningful is to be gained in continuing the process; or
- (d) upon the request of both parties.

Notice of
Termination

40.4 A notice of termination is required when further facilitated discussions, negotiations or mediation shall not resolve the dispute. The dispute may progress to the next stage of the dispute resolution process or to final arbitration.

Dispute resolution
not available

40.5 Dispute resolution is not available for disputes in relation to:

- (a) administration or distribution of an estate;
- (b) decisions relating to housing allocations;
- (c) decisions of Council to grant or refuse to grant an Interest or Licence in Name First Nation Land to a non-Member;
- (d) decisions on expropriation under this *Land Code*: and
- (e) prosecution or conviction of an offence under a Land law or under criminal law.

Duty of Fairness

40.6 All persons involved in a dispute under this part shall be:

- (a) treated fairly;
- (b) given a full opportunity to present their case; and
- (c) given reasons for a decision made under this part.

Rules and
Procedures

40.7 Council may prescribe such laws, resolutions, rules, policies, procedures, forms and reasonable fees not inconsistent with this *Land Code*, as may

be necessary to give effect to this part including:

- (a) facilitated discussions, negotiations, mediations and arbitrations;
- (b) terms of office for panelists;
- (c) remuneration of facilitators, mediators, arbitrators, panelists, expert advisors, professionals or other persons retained to assist in the resolution of disputes;
- (d) code of conduct for facilitators, mediators, arbitrators, panelists, expert advisors, professionals or other persons retained to assist in the resolution of disputes;
- (e) disclosure and confidentiality;
- (f) imposition of time limitations for submitting a notice of dispute and referring a matter or dispute to the Panel;
- (g) implementing recommendations of the Panel; and
- (h) any other matter necessary to give effect to this part.

Waiver of Liability

40.8 By participating in this dispute resolution process, the parties agree that the facilitators, mediators, arbitrators and panelists shall not be liable to the parties for any act or omission in connection with the services provided by them in, or in relation to, the dispute resolution processes, unless the act or omission is fraudulent or involves willful misconduct.

41. Roster Panel Established

Appointment to Roster Panel

41.1 The Roster Panel shall be composed of a maximum of twenty (20) panelists.

Ineligible

41.2 Notwithstanding the general rules of conflict of interest in the *Land Code*, no Council member, or employee of Name First Nation or person already serving on another board, body, or committee related to Name First Nation Land shall sit on the Roster Panel.

Representation

- 41.3 Council shall appoint the Roster panelists, and shall ensure that, where possible, the Roster panelists represent the various elements of the community.

Rules of Roster Panel

- 41.4 The Roster Panel may establish rules for the procedure at its hearings and generally for the conduct of its affairs.

42. Impartiality of the Dispute Resolution Panel

Duty to Act Impartially

- 42.1 The Panel shall act impartially and without bias or favour to any party in a dispute.

Offence

- 42.2 It is an offence for a person to act, or attempt to act, in a way to improperly influence a decision of the Panel.

Rejection of Application

- 42.3 In addition to any other sanction, the Panel may reject an application without hearing it if the Panel believes that the applicant acted, or attempted to act, in a way to improperly influence its decision.

Rules of Conduct for Parties to a Dispute

- 42.4 The Roster Panel shall establish rules of conduct for the parties to a dispute.

43. Arbitration by the Dispute Resolution Panel

Disputes

- 43.1 Applications for resolution by the Panel shall be submitted to the Lands Department.

Panel of Three Chosen From Roster Panel

- 43.2 Disputes referred to the Roster Panel are to be heard by three (3) panelists chosen as follows:

- (a) one (1) panelist is to be chosen by each of the two (2) parties to the dispute;

- (b) one (1) panelist, who is to be the chairperson, shall be chosen by the rest of the Panel; and
- (c) in the case of situations not adequately covered by clause (a) or (b), all three (3) panelists shall to be chosen by the Roster Panel as a whole.

Panel Established

43.3 The Panel is hereby established with jurisdiction to resolve disputes in relation to Name First Nation Land.

Dispute resolution
not available

43.4 For greater certainty, the Panel shall not hear disputes in respect of matters that are not subject to dispute resolution under this *Land Code*.

44. Powers of the Dispute Resolution Panel

Power of the Panel

44.1 The Panel may, after hearing a dispute:

- (a) confirm or reverse the decision, in whole or in part;
- (b) substitute its own decision for the decision in dispute;
- (c) direct that an action be taken or ceased;
- (d) refer the matter or dispute back for a new decision; or
- (e) make an order to give effect to its decision, including any necessary order for the survey of an Interest in Name First Nation Land, the registration of an Interest in Name First Nation Land, and the allocation of the costs of any incidental measures to be taken to give effect to such an order.

Recommendations by Panel

44.2 In addition to making a determination in respect to a particular dispute, the Panel may recommend to Council:

- (a) the suspension of any Land law or decision made by Council for such period as is necessary for Council to reconsider, amend or repeal such Land law or decision, provided that any amendment or repeal of a Land law is made in a manner consistent with this *Land Code*; or
- (b) any other recommendation that it deems reasonable and necessary in the circumstances.

Interim Decisions

- 44.3 The Panel may, in relation to a dispute over which it has jurisdiction under this part, make any interim order it considers to be necessary as a matter of urgency to preserve the rights of the parties to the dispute or to preserve or protect an Interest in Name First Nation Land.

Professional Services

- 44.4 The Panel may obtain the service of professionals to assist it in fulfilling its functions, in which case it shall make best efforts to use professional services available in the community.

Written Decisions

- 44.5 Decisions of the Panel shall be in writing, signed by the person chairing the Panel or by an officer designated by the Panel to do so. Where requested, the written decision shall be provided to a party to the proceeding within fourteen (14) days after the date of the decision.

Appeal of Decision

- 44.6 A decision of the Panel is binding but, subject to review by the Federal Court (Trial Division).

PART 9 OTHER MATTERS

45. Liability

Liability Coverage

- 45.1 Council shall arrange, maintain and pay insurance coverage for its officers and employees engaged in carrying out any matter related to Name First Nation Land to indemnify them against personal liability arising from the performance of those duties.

Extent of coverage

45.2 The extent of the insurance coverage shall be determined by Council.

46. OffencesApplication of the
Criminal Code

46.1 Unless some other procedure is provided for by a Name First Nation Land law, the summary conviction procedures of part XXVII of the Criminal Code, as amended from time to time, apply to offences under this *Land Code* or under a First Nation Land law.

Fines & Imprisonment

46.2 Unless some other procedure is provided for by a Name First Nation Land law, any person who commits an offence under this *Land Code* or a Name First Nation Land law is liable to a fine not to exceed \$5,000 and to a term of imprisonment not to exceed six months or to both fine and imprisonment, provided however, that offences related to Name First Nation environmental protection laws may carry penalties consistent with similar environmental protection laws in force in Canada.

47. Revisions to *Land Code*

Revisions

47.1 A ratification vote is not required for revisions made to this *Land Code* that do not change the substance of this *Land Code*. Council may, from time to time, arrange and revise this *Land Code*. Revisions include:

- (a) an amendment of the description of Name First Nation Land subject to this *Land Code* and Individual Agreement;
- (b) a reference in this *Land Code* to a clause in another act or document that was amended and resulted in clause renumbering;
- (c) a reference in this *Land Code* to an Act or parts thereof that have expired, have been repealed or suspended;
- (d) changes in this *Land Code* as are required to reconcile seeming inconsistencies with other acts;

- (e) minor improvements in the language as may be required to bring out more clearly the intention of the Name First Nation without changing the substance of this *Land Code*; and
- (f) correct editing, grammatical or typographical errors.

48. Commencement

Preconditions

- 48.1 This *Land Code* shall take effect if the community approves this *Land Code* and the Individual Agreement with Canada and this *Land Code* has been certified by the verifier pursuant to the *Framework Agreement*.

Commencement date

- 48.2 This *Land Code* shall take effect on the first day of the month following the certification of this *Land Code* by the verifier.

APPENDIX “A”

Description of the Name First Nation Land as listed as ANNEX “G” in the Individual Agreement on First Nation Land Management between Name First Nation and Canada.

ANNEX “G”

[INSERT ANNEX “G” OF INDIVIDUAL AGREEMENT HERE]



How Outreach Supports The Land Code

Model Land Code Section 12

12. Meeting of Members and Community Approval Procedure

Notice of meeting

12.1 Council shall give written notice of the meeting of Members and any matter requiring community approval at a meeting of Members, and include in the notice:

- (a) the date, time and place of the meeting;
- (b) a brief description of the matter to be discussed;
- (c) a brief description of any matter that requires community approval; and
- (d) other information and material that Council considers appropriate.

Manner of notice

12.2 The notice shall be given to the Members before the meeting or vote, by:

- (a) posting the notice in public places;
- (b) providing the notice to Members and taking reasonable steps to locate and inform Members who reside on and off-reserve;
- (c) posting the notice online; and
- (d) additional methods Council considers appropriate.

Permission of Council

12.3 A person, other than a Member, authorized by Council may attend a meeting of Members.



Informed Decision

12.4 Council may schedule more than one meeting of Members as may be necessary to ensure that Members are well informed before making a decision on a proposed Land law or Land matter.



How Outreach Supports The Land Code

Model Land Code Section 13

13. Community Meetings of Members

Community Meetings

13.1 Council shall call a meeting of Members prior to:

- (a) declaring Land or an Interest to be subject to this Land Code;
- (b) enacting a Land law respecting a community plan or subdivision plan;
- (c) any development affecting a heritage site or an environmentally sensitive property;
- (d) enacting a Land law respecting environmental assessment and protection;
- (e) enacting a Land law respecting the transfer and assignment of rights and Interests in Name First Nation Land;
- (f) enacting a Land law respecting matrimonial real property on reserve;
- (g) enacting a Land law respecting the rate and criteria for the payment of fees or rent for Name First Nation Land;
- (h) enacting a Land law respecting the rights and procedures on community expropriation; and
- (i) respecting any other matter, Land law or class of law that Council, by Resolution, declares to be subject to this section.

No Quorum

13.2 No quorum or minimum level of participation is required at a meeting of members.



How Outreach Supports The Land Code

Model Land Code Section 14

14. Community Approval

Community approval

14.1 Community approval shall be obtained for the following:

- (a) any master Land use plan;
- (b) any new grant or disposition of an Interest or Licence in any years;
- (c) any renewal of a grant or disposition of an Interest or Licence in any Name First Nation Land that extends the original term beyond thirty-five (35) years;
- (d) any grant or disposition of any non-renewable natural resources on any Name First Nation Land exceeding a term of five (5) years;
- (e) any deletion of a heritage site;
- (f) any voluntary exchange of Name First Nation Land; and
Name First Nation Land Code June 28, 2017
- (g) any other matter, Land law or class of law that Council, by resolution, declares to be subject to this section.

Utility Permits Excepted

14.2 Community approval is not required for an easement, right of way or permit granted by Council for utilities, including telecommunications, water, electricity, natural gas, sewer services and ancillary services.



How Outreach Supports The Land Code

Model Land Code Section 15

15. Ratification Votes

Community Approval by Ratification vote

15.1 Community approval by ratification vote shall be obtained for an amendment to this Land Code.

Exceptions

15.2 A community approval by ratification vote is not required for:

- (a) an amendment to the description of Land of this Land Code;
- (b) revisions to this Land Code made pursuant to section 47; and
- (c) an amendment to, or renewal of, the Individual Agreement.

Ratification process

15.3 Any ratification vote required under this Land Code may be conducted in a similar manner as the Name First Nation Community Ratification Process, which was used to ratify this Land Code.

No verifier

15.4 A verifier is not required in any ratification vote.

Quorum

15.5 In order to obtain a quorum for a community approval by ratification vote under this Land Code at least twenty percent (20%) of Eligible Voters shall register to vote.

Approval by majority

15.6 A matter shall be considered approved at a ratification vote if a majority of



fifty percent plus one (50%+1) of the registered Eligible Voters vote to approve the matter.

Second Ratification Vote

15.7 If a quorum was not obtained at a first ratification vote, a second ratification vote may be called.

Second Ratification Vote Quorum

15.8 In order to obtain a quorum for community approval for a second attempt at a ratification vote under this Land Code at least ten percent (10%) of Eligible Voters shall register to vote.

Approval by Majority

15.9 A matter shall be considered approved at a second ratification vote if a majority of fifty percent plus one (50%+1) of the registered Eligible Voters vote to approve the matter.

Policies Consultation, Approval and Ratification

15.10 For greater certainty, Council may make Land laws or policies:

- a) for meetings of Members;
- b) for community consultations;
- c) for community approvals;
- d) for ratification votes; and
- e) respecting any other matter, that Council, by resolution, declares to be subject to part 3 of this Land Code.



LAND CODE SUMMARY

There are 9 Sections in this Land Code:

Part 1: Preliminary Matters

This introduces the Land Code to the reader and defines how the document should be read. There is a description of the terms that will be used in the document, an explanation of where the authority to govern comes from, what the purpose of the Land Code is and what lands the Land Code applies to (the reserve land description).

Part 2: First Nations Legislation

This section outlines what law making power the First Nation will have out of the Land Code and the procedure for how new land laws will be created and implemented (including where they will be published and when they take effect) under the Land Code.

Part 3: Community Consultation and Approvals

This section defines how and what the process is for implementing various elements of the Land Code. For example, approving a land use plan or enacting land laws requires community approval under the conditions defined in this section. Furthermore, this section touches on the procedures for a “meeting of members”, and the ratification process and approval thresholds are for passing laws or other matters such as: i.e. development of a heritage site, amendment to the Land Code, or any other matter.

Part 4: Protection of Land

This section outlines some of the key protections the Land Code offers- and the special conditions by which the First Nation could expropriate land (only by community approval through ratification vote) and the conditions for calculating compensation, but also the rights that may not be expropriated. This section also defines the necessity for a law on heritage sites, and ensures no development or amendment can be made to the land use plan to get rid of a heritage site created under this law. Finally this section states that an agreement is necessary for the First Nation to exchange land with another party (i.e. First Nation, Province, and Federal Government) and there are conditions to be met for lands to be received (such as the need for an appointed negotiator, freedom of receiving additional compensation or land in trust, and federal commitment to add any lands to the existing reserve base).

Part 5: Accountability

This section really has to do with how the Land Code is administered by First Nation including the rules for a “conflict of interest” and the duty to report and abstain from participation in land matters where there is a conflict. Also in the context of conflict of interest this section defines the non-application of these rules for common interests, dealing with disputes and penalties.

This section also applies to how financial management, audit and financial reporting will be conducted – establishing separate lands bank accounts, signing officers, bonding, signing



authorities, and the adoption of the fiscal year for operations and reporting. This section also goes into detail about the specific rules for a year to year lands budget and financial policy. The final part of this section is about financial records and the member's right to access information on year to year financial statements, audit report, the annual report on lands, and the penalties for interference or obstructing the inspection of these records by another member- and the coordination and roles responsible for creating and making these documents public (i.e. auditor and council).

Part 6: Land Administration

This section starts off by establishing the Lands Committee - it defines the composition, eligibility requirements, selection method, term of office and dealing with vacancies. This section also defines how revenue monies from lands will be handled (from fees, leases etc.), how the registration of land interests (leases, permits, licences) will be conducted and how it is captured through First Nations Land Registry System (FNLRS) and a duplicate register if directed.

Part 7: Interests in Land

This section relates more to the operation of the First Nation's lands administration and how it will address existing interests (e.g. CPs) and new land related interests (e.g. CPs or allocations). This section defines that there will need to be written documents, standards created, and that consent will be necessary to process any granting or disposing of assignments of land. This section defines the rights of CP holders and the procedure for cancelling a CP, the transfer and use of a CP, and the situation when a CP holder ceases to be a member. This section also defines the limits on mortgages and seizures, transfers upon death, and the principles for spousal property law (to be made into a Matrimonial Real Property law)

Part 8: Dispute Resolution

This section is created to address how possible disputes that could arise by any benefactor (e.g. First Nation member) of the Land Code and how the process for addressing disputes will be conducted. For example, an adjudicator would be established to resolve disputes in relation to lands unless members could come to some resolve by way of an informal resolution of disputes. The section sets out the powers for the adjudicator, adjudication procedures and decisions and the member's ability to appeal these decisions and expectations around costs.

Part 9: Other Matters

This section defines four (or more) items to address common issues such as:

1. Liability- the need for director and officers insurance for Lands Committee members,
2. Offences and enforcement- what are offences and what is the penalty,
3. Amendments to Land Code- specifically the process for amending this Land Code,
4. Commencement- defines when the actual start date will be.



LAWS, REGULATIONS AND POLICIES

Laws, regulations and policies are critical components of our society and government. They establish public priorities, help maintain order and safety, and play an important role in shaping the political and social fabric of communities at every level - from towns and cities to provinces and the nation.

LAWS

Laws are enacted by government bodies (First Nation, federal, provincial and municipal). Laws are a set of rules or norms of conduct, in other words, they describe what can or cannot be done and they must be obeyed by everyone including private citizens, groups and companies. Laws have a specific enactment procedure and are administered and enforceable through our system of courts. Laws are not easily changed or amended.

LAWS BY FIRST NATION COUNCILS

Framework Agreement on First Nation Land Management – Pursuant to the *Framework Agreement* First Nations Councils may enact laws respecting the development, conservation, protection, management, use and possession of First Nation reserve land and interests or land rights and licences in relation to those reserve lands. This includes any matter necessary or ancillary to the making of laws in relation to First Nation land.

For example, a First Nation may enact laws respecting zoning, land use, subdivision control and land development, environmental assessment and protection, the provision of local services, provision of services for the resolution of disputes in relation to land decisions. The *Framework Agreement* specifies laws that can be enacted by the Chief and Council acting alone but it also specifies laws that require community support (i.e. matrimonial real property, land use planning).

Indian Act – Even if a First Nation has a land code in effect, a First Nation may choose to enact bylaws under section 81 of the *Indian Act*. Pursuant to that section, a Council may make by-laws in a number of areas including traffic, observance of law and order, prevention of disorderly conduct and nuisances, removal and punishment of persons trespassing upon the reserve, etc.

The laws are enacted by the Chief and Council but must be approved by the Minister of Indian Affairs, even where the First Nation has a land code in effect. An intoxicant by-law can also be passed by Council pursuant to section 85.1 of the *Indian Act*; these laws do not require Ministerial approval but rather need community approval. Lastly, Councils may also pass a taxation by-law, with the consent of the Minister, pursuant to section 83 of the *Indian Act*.



REGULATIONS

Regulations – are a form of law or rule that are authorized under a law and subordinate to that law. Departments and administrators generally write regulations to implement and support the requirements of the law. Regulations deal with the details or technical matters that are not found in a law. Regulations can be easier to change and amend. Regulations are made by federal or provincial Departments of government and approved by Cabinet.

For example there are Regulations under the *Indian Act* concerning Band Council elections, timber, referendums. There are many Regulations under the *Fisheries Act* which set quotas and seasons for different species of fish and which are different in each of the provinces and territories. The *Canada Environmental Protection Act* also has many regulations concerning pollutants, emissions from various industries and similar subjects. Lastly, the First Nations Land Registry Regulations were established pursuant to the *First Nations Land Management Act*.

POLICIES

Policies – are a less stringent set of rules or strategies set in place by a government to improve standards. They are set in place to achieve certain objectives that are within the law or that need to comply with the law. Policies are easier to change and amend.

First Nations Land Management Resource Centre

*Comprehensive Communications Program helps
Squamish Nation win vital referendum*

March 2004

Comprehensive Communications Program helps Squamish Nation win vital referendum

In January 2000, the late Squamish Nation Chief Joe Mathias asked former Squamish Nation councillor Tewanee Joseph and his colleague, councillor Krisandra Jacobs, to create a communications strategy and program that would change the poor public perception of the Squamish Nation, overcome the lack of communication with local print and electronic media and improve the internal communication between members and the council as well as administration.

First and foremost, Joseph and Jacobs were facing a significant communications gap between the chief and council, administration and Nation members. They had to improve the poor communications – and time was becoming a critical factor as the Nation was facing a referendum on a \$92.5 million specific claim settlement offer from the federal government.

“Initially, communications with members had taken the form of a weekly newsletter with the odd information package on an ad-hoc basis with some of the Nation’s departments putting forward information, on education, economic development, land claims and treaty, but there was nothing consistent,” Joseph revealed.

Previous communications efforts had not been enough to help members understand what was happening with their Nation. However, the Nation was staring in the face of a specific claim settlement offer that required the membership to vote on a referendum to approve the Squamish Nation Settlement Agreement and Trust. The original Omnibus Trust Action had been launched in 1977 by Chief Mathias and sought restitution on reserve lands in down town Vancouver, the town of Squamish and in various parts of the of North Vancouver that had been taken from the Nation by various means.

In 1999, an out-of-court settlement-in-principle had been reached between the Squamish Nation and the federal government with a proposed \$92.5 million settlement agreement and trust offer that had to be submitted to the membership for review and approval.

Chief Mathias had asked Joseph and Jacobs to help communicate to the Nation's approximate 2,000 voting members the 23 years worth of effort that had gone into the settlement-in-principle. Unfortunately, just as Joseph and Jacobs were setting up the Communications Services for the Squamish Nation, it was beset by the loss of its well-respected leader, Chief Mathias.

Challenges

The Squamish Nation had to overcome its poor public perception and communications challenges. A media analysis conducted by Joseph and Jacobs indicated that during a two-month period in 1999/2000, the Squamish Nation had appeared in local, regional, and national media over 27 times – all of them negative. Some of the members were not happy with Chiefs and Council and questioned why the Nation wasn't appearing to be transparent and providing timely, fact-based information.

“One of the challenges we were facing was creating this transparency for ourselves,” Joseph continued. “And we had to explain to hundreds of members the Nation's past that led to the Omnibus Trust Action. We then had to bring them up-to-date, and ultimately explain how the settlement agreement and trust would impact on every member's life. To do that, we had to design and implement an effective communications plan that would allow members to make an informed decision.”

In addition, explained Joseph, the media and general public knew very little about the Squamish Nation. “They knew that we were there, they knew that we were neighbours, perhaps, but they knew absolutely nothing about what we did,” he explained. “They did not know that we have a \$35 million annual budget and that we inject into the City and District of North Vancouver and Squamish, a significant amount of revenue into their economies.”

“We always have to connect with our past because if we don't understand that, we don't know enough about it, then making a decision on something like a settlement agreement becomes a significant challenge because we just don't know where we come from,” Joseph acknowledged. “Our mantra at Squamish Nation for anything the Nation does is ‘understanding our past, dealing with the present and building

our future together’.” What Joseph and Jacobs has found was that “if we can show our connection to the ancestors, then people will remember that some member of their family were part of making the decisions over the years.”

That connection to the Nation’s past has proven invaluable as he and Jacobs put the communications program into high gear. Joseph feels that by promoting a free flow of information and facilitating dialogue and networking within the community, a communications gap can be bridged.

Together with Jacobs they established a proactive ‘grass roots’ advocacy program that encouraged the membership to contact the Chiefs and Council on issues that were important to them. As a liaison between the membership and council, the duo could be called at any time and they would get responses for members. In fact, they guaranteed responses.

“Never before had we done that,” Joseph admitted. “If someone calls us, we won’t let a day or two go by without phoning them back.”

Two other challenges facing the team were to get the Chiefs and Council up-to-speed on what the whole deal was all about and then to break down the settlement and trust into manageable, digestible pieces for the members to understand.

To communicate effectively to their Nation’s membership, the communications specialists had to target their information to an understandable comprehension level as there was a lot of ‘legalese’, financial and technical information.

“One of the most significant challenges we overcame was to summarize 23 years of work onto one page of paper,” Joseph said. That was a very important piece of information not only for Chiefs and Council but for membership as well.

The Referendum

Another challenge facing the young communicators was to motivate the Nation’s members to turn out and vote. The threshold for acceptance was 973 voters in favour (absolute majority).

The Squamish Nation had 3,000 members of which 1,944 were voting members (800 off-reserve in locations throughout North America and the World).

An absolute majority was required to accept the offer from the federal government – 50 per cent plus one from the total voting population. Under the federal government guidelines, if a voter did not show up (an absentee vote), it was considered a “No” vote; consequently, the communications team faced a huge challenge with only six weeks to go before the referendum.

It was June 9, 2000, and the referendum was going to be held on July 23. Prior to this referendum, the Squamish Nation had never had more than 700 people turn out for a vote on any sort of referendum. But the referendum was a bit more complicated as there were two votes: one to surrender the land; the second to accept the offer. Distinguishing the two issues was to become a major task.

The Communications Plan

“Before we developed and implemented our communications plan, we drafted a set of principles that would guide our communications activities,” explained Joseph. The principles were based on teaching from elders as well as comments made by membership over a 20 year period.

The communications effort included two general meetings, two youth meetings and one staff meeting. In addition, two elder meetings, two off-reserve meetings and two follow-up, informal meetings were held.

Attendance peaked at 450 members at the first meeting, dropping to 30 to 60 at the last two meetings, which were circle-style meetings without microphones. The Chiefs and Council were available to any member seeking information.

“It was actually one of our plans to go from a large number of people showing up for the first meeting to a few people at the end because if we’re doing our job right, if we’re getting the information out to them, our community members are coming to the meetings and asking informed questions, then everything is working,” Joseph stressed.

The strategy and the tactics that was used to encourage dialogue between the members and the Chief and Council was as follows:

SQUAMISH NATION REFERENDUM COMMUNICATIONS TACTICS

1. Used community members to support others who weren't comfortable speaking out at meetings.
2. Developed a speaking list to give every one a turn and limit their time to reduce the tendency by some members to dominate the meeting.
3. Created a message centre with a 1-800 number to address the concerns of members living off-reserve.
4. Created 15 different information bulletins addressing single aspects of the issues before the members, including a "Question and Answer" document.
5. Created a video and produced 2,200 copies so that visual-oriented members could view the 25-minute message in the privacy of their own homes.
6. Created a website for the internet users that included archived information about the Nation's history, particularly the amalgamation of 1923 when 16 bands came together to form the Squamish Nation and of the Kitsilano land issue. The website included e-mailing capabilities for members who wanted immediate answers to questions.
7. Develop a media liaison program where the news reporters were given backgrounders on issues and procedures and where the chief and councillors were prepped before discussing matters with the media.
8. Implement a community relations program where the Chiefs and Councilors visited the communities that make up the Nation.
9. Developed direct mail or flyers, personalized for each recipient, to inform them of all the issues.
10. Conducted a survey and contacted of over 1,900 members before voting day to encourage members to learn about the settlement-in-principle and to get out and vote.

And perception has been changed!

“The media and the general public know more about the Squamish Nation today than they ever had in the past and, in fact, our stories in the media are more balanced now than they ever have been,” Joseph explained.

Today, the Squamish Nation membership is in contact with the chief and council on a regular basis and the Communications Department receives between 100 and 120 calls a day.

“What we found is if people are part of communications and they are able to be part of producing documents, newsletters and websites, then they are more inclined to know what is happening in the community.”

And Joseph’s key to success: “There’s no complex ideas behind it. It’s all very basic and simple things that we all are already doing. All we’ve done is kept it very, very simple and listed carefully to our membership.”

Results

The referendum turned out to be an overwhelming success with three-quarters of eligible voting members turning out for both votes. Also, the membership voted by a clear majority 88 percent to accept the Settlement Agreement and Trust.

<u>REFERENDUM RESULTS</u>		
	<u>First Vote</u>	<u>Second Vote</u>
Total eligible voters	1,944	1,944
Total votes cast	1,487	1,325
Percentage voting	76.5%	68.2%
“Yes” Votes	1,313	1,121
Percentage support	88.3%	84.6%
“No” Votes	165	200
Percentage against	11.1%	15.1%
Spoiled ballots	9	4
Percentage spoiled	0.6%	0.3%

Elements of a Strategic Communications Plan

(Taken from Centre for First Nation Governance <http://www.fngovernance.org/>)

Determine Goal

Identify and Profile Audience

Develop Messages

Select Communication Channels

Choose Activities and Materials

Establish Partnerships

Implement the Plan

Evaluate and Make Mid-Course Corrections

Step 1: Determine Goal

To initiate a successful and effective communications effort, start with an assessment of your current organizational goals. Examine what your organization stands for—its mission, values and beliefs. Look closely at who your organization is serving. This process will help narrow and sharpen the focus for your communication initiative(s).

What issue is most important to your organization right now?

Who is most affected by the issue stated above?

Who makes decisions about the issue?

What is the overall goal you want to achieve? (i.e., What change would you be able to observe?) (Be specific.)

What tangible outcomes would you like to achieve through a communications effort? i.e., How will you know you are achieving your goals? (Be specific. What would you see, hear, or have in-hand that would let you know you are making progress toward the goal?)

Step 2: Identify and Profile the Audiences

Once you've identified your key issues, it's time to identify and profile specific audiences to target with a communications initiative.

The reason for taking the time to look this closely at your audiences is that this kind of background information is essential in choosing the most effective ways to communicate with the audience. Madison Avenue has learned this lesson well, now we need to apply some of the same kind of thinking to communicating about your issue.

Audience Definition Worksheet

Of the audiences listed on the Step 1 worksheet, whose knowledge, attitudes and behavior must be changed in order to meet your goal? (These groups now become your primary audiences.)

Who else is affected if you succeed in your goal? (secondary audience)

Are there others who can influence primary and secondary audiences? (tertiary audiences) (You may wish to design a communication initiative to reach some of these audiences as well. Or you may see a role for these folks as “allies and partners”.)

Now you are ready to complete worksheets for each of your audiences identified above. (see next page)

Step 3: Develop Messages

Your messages are closely tied to your goal and objectives. They deliver important information about the issue and compel the targeted audience to think, feel, or act. They can:

- Show the importance, urgency, or magnitude of the issue
- Show the relevance of the issue
- Put a “face” on the issue
- Be tied to specific audience values, beliefs, or interests of the audience
- Reflect an understanding of what would motivate the audience to think, feel, or act
- Be culturally relevant and sensitive
- Be Memorable

The messages you develop by using the worksheet provided in this section can be used in many ways. First, they are a set of statements that you and your team agree upon as conveying the key information for your initiative. They will not include all the detail and supporting ideas and data that you may use in printed materials or other forms of communication. The messages you develop in the worksheets can become the underlying themes for your materials and activities. You may develop slogans based on them. You may develop sets of talking points that members of your team will use in making presentations. And they easily become the basis for radio and print PSAs, the genesis for posters, and may suggest topics for fact sheets, drop-in articles, and even letters to the editor or newspaper editorials.

Before turning to the Message Development Worksheet, take a few moments to read “Considerations for Message Construction.”

Considerations for Message Construction

Both the channel (the conduit for sending your message to the chosen target audience) and the purpose of communicating environmental information influence message design. Information may be designed to convey new facts, alter attitudes, change behavior, or encourage participation in decision-making. Some of these purposes overlap; often they are progressive. That is, for persuasion to work, the public must first receive information, then understand it, believe it, agree with it, and then act upon it. Regardless of the purpose, messages must be developed with consideration of the desired outcome. Factors that help determine public acceptance include:

- f* **Clarity**—Messages must clearly convey information to assure the public's understanding and to limit the chances for misunderstanding or inappropriate action. Clear messages contain as few technical/scientific/bureaucratic terms as possible, and eliminate information that the audience does not need in order to make necessary decisions (such as unnecessarily detailed explanations). Readability tests can help determine the reading level required to understand drafted material and help writers to be conscientious about the selection of words and phrases.
- f* **Consistency**—In an ideal world there would be specific consensus on the meaning of new findings, and all messages on a particular topic would be consistent. Unfortunately, consistency is sometimes elusive. Experts tend to interpret new data differently, making consensus among government, industry, and public interest groups difficult.
- f* **Main points**—The main points should be stressed, repeated, and never hidden within less strategically important information.
- f* **Tone and appeal**—A message should be reassuring, alarming, challenging, or straightforward, depending upon the desired impact and the target audience. Messages should also be truthful, honest and as complete as possible.
- f* **Credibility**—The spokesperson and source of the information should be believable and trustworthy.
- f* **Public need**—For a message to break through the “information clutter” of society, messages should be based on what the target audience perceives as most important to them, what they want to know, and not what is most important or most interesting to the originating agency.

Prior to final production, messages should be pretested with the target audiences (and in some cases with channel “gatekeepers”) to assure public understanding and other intended responses.

Source: Making Health Communication Programs Work: A Planner's Guide, Office of Cancer Communications, National Cancer Institute, National Institutes of Health (1992).

Step 4: Select Communication Channels

Communications channels carry the messages to the target audiences. Channels take many forms and there is an infinite list of possibilities. Answering some key questions will aid you in identifying the most effective channels for reaching your audiences.

Sample Channels

- Television stations
- Radio stations
- Newspapers
- Web sites
- Community centers
- Street festivals
- Laundromats
- City government offices (e.g. Division of Motor Vehicles)
- Malls
- Parks
- Schools, colleges, vocational and language training centers
- Libraries
- Recreation centers (e.g. basketball courts or soccer fields)
- Community non-profit offices
- Transportation depots/stations
- Supermarkets
- Fast food restaurants
- Literature Racks

Channel Worksheet (one worksheet for each audience)

Note: Use the work you did in Step 2 to help you with these worksheets.

Audience:

Where or from whom does this audience get its information? Who do they find credible?

Where does this audience spend most of its time? Where are they most likely to give you their attention?

Complete list of channels your team wants to use to reach this audience:

Step 5: Choose Activities and Materials

What are the activities, events, and/or materials—to be used in your selected channels—that will most effectively carry your message to the intended audiences? In choosing these, you should consider:

- Appropriateness to audience, goal, and message
- Relevance to desired outcomes
- Timing
- Costs/Resources
- Climate of community toward the issue/activity
- Cultural appropriateness (including language)
- Environment—geographic considerations

Sample Activities

News conferences
Editorial board meetings at newspapers
Radio talk or call-in shows
A benefit race
Parades
Web links
Conferences
One-on-one meetings
Open houses
Speeches
Hotlines
Listserves
Information Fair

Materials to Support Activities

News releases
Fliers and brochures
Opinion editorials (op-eds)
Letters to the editor
Posters
Public service announcements (PSAs)
Bookmarks
Video presentations
Web pages
A float in a parade Buttons, pins,
and ribbons Promotional items
and giveaways

HARNESSING THE POWER OF PARTNERSHIPS

Allies and Partners

Groups, organizations, or businesses may exist that would aid you in reaching your goal by providing funds, expertise or other resources toward your communications

The prospect of developing partnerships with area businesses and local organizations may seem overwhelming if you haven't had much experience in working with the private sector. However, there are some practical steps you can follow that will focus your energies and resources where they will be most effective.

Determine Your Needs

Before you ask for help, it's important to identify what you need most. Make a "Wish List" and include areas like equipment (computers, vehicles, or supplies); services; educational activities and materials; and specific products that can be donated. This list will help set your priorities and guide who you need to contact.

Identify Potential Partners

There may be hundreds of organizations to approach in your community—where do you start? Let your fingers do the walking and start with the Yellow Pages. By using your Wish List to identify categories of need, you can narrow the types of organizations that can help you. Don't limit yourself at this stage and try to be imaginative. For instance, a local pizza parlor may not have an obvious link, but if it is a popular hang-out for high school students, the restaurant might host a pizza party and allow you to hand out information on ORVs.

Other sources for potential partners are your Chamber of Commerce directory, general corporate directories, and personal contacts, including your board of directors or existing coalitions. For national contacts as well as local, there are several national directories that are available at your local library. The Corporate Giving Directory, which is updated annually, is an excellent choice. Don't forget to monitor the local media. Who sponsored that nonprofit ball and where was it held? What company bought the T-shirts for the annual 10K Run to support environmental research? Also, if you have a good relationship with other nonprofits or agencies, they may share their giving list.

Prioritize Your Contacts

When you have a list of possible contacts, begin making your partnership circle. This circle will help you further identify your most important contacts so you can prioritize your efforts. You've chosen possible partners by category—now look for personal contacts. Think of dropping a pebble in the water and watching the ripples spread out. By putting organizations where you already have contacts in the center, you will anchor your effort as you move further and further out.

Start with organizations that have helped in the past—they will be the very center of your circle. Then talk to employees, your board of directors, or coalition members. Who do they know? You may discover that someone on staff went to school with the president of a local bank. Put organizations where you have close personal contacts on the next "wave" of your circle. After examining personal contacts, look for those organizations that would make "perfect partners," i.e., organizations that have supported environmental issues in the past. Keep going until you get to the very outer layer, which would be organizations where you have no contacts at all and no apparent links. Now you have prioritized your outreach list!

The final step before preparing your proposals is finding the correct contact. You may have this information if you've used an up-to-date directory or have a personal contact, but if you're not sure, make a phone call. Ask to whom you would send a partnership proposal; be sure to get the person's name, title, full address, and phone number. And finally, don't overlook the importance of using the Internet to research target organizations.

Make Your Proposal Strategic

Companies have a giving strategy, so your proposal should be strategic too. A fundraiser for a major national nonprofit once said, "There is no corporate philanthropy—they all give for a reason." Most organizations give strategically, meaning they give in an area(s) where they have an interest, want to influence someone or something, or stand to gain something—employees, customers, and the community influence those decisions as well. We all know that there can be tough competition for nonprofit support, and that decisions are sometimes made on small details. Look at your partnership circle and carefully look for connections. Has a city councilperson recently dealt with an environmental issue? Look for logical allies and mutual goals and put that information in your proposal.

Make the proposal "mutually beneficial." Just as you have asked for something, be prepared to offer something in return. Try to at least reward the organization with positive community exposure and recognition for its efforts.

Use your best judgment on the proposal. If you know someone, a letter may suffice. If you're sending a proposal to a large company, you may want to send a letter, an information kit, and a recent newspaper article on what your organization is doing in the community. Always demonstrate the importance of the issue, the importance of the program in the community, specifically how the organization can help strengthen your efforts and how the organization will benefit from its participation.

Face-to-Face Follow-up

About a week after sending your proposal, call the contact to verify that he/she received the information. At this point, introduce yourself (if you don't know the contact already) and offer to answer questions or send more information. Ask when would be a good time to call back to schedule an appointment; mark the date and call promptly at that time.

The best way to "sell" the proposal is face-to-face where you can talk about the campaign, its goals, and its accomplishments. It's important to be realistic. Smaller businesses may not have extra funds to support community programs, but may be able to provide in-kind support. They may be willing to include information on ORVs in their mailings to the community, fliers to circulate to their employees, in their stores, etc. If you've done your homework, you will be able to request help that the company will gladly agree to provide.

Make Your Community Partners Part of Your Team

Don't ask for something and then never contact the organization again! Keep a database of all donors (even listing those who said they might give in the future) and recognize them periodically with a personal note or newsletter. Keep them informed on what's happening with ORVs and other environmental issues in the community and continually offer opportunities for participation, including volunteering. Also, offer a chance for feedback so you can establish a two-way dialogue with your partners. A town meeting, an online seminar, or a presentation, are all ways to share information with your partners. Make them team members and they will continue to support you for years to come!

Step 7: Implement the Plan

There are many tools for organizing yourself around time, dollars, and staff needed to implement an initiative. One approach is given here as an example. Of course you should feel free to use your own tried and true management tools.

Use the following steps to determine time, budget and staffing needs:

1. List all activities
2. Under each activity, outline the steps, in order, that will lead to its completion
3. Assign a budget estimate to each step
4. Assign a staffing needs estimate to each step
5. Working backwards from the activity completion point, assign a date for each step in the activity.

You can plot your dates on calendar pages if you'd like, or you can organize them in another timeline such as a Gantt chart (date/timeline runs horizontally across page; tasks are listed in chronological order down left-hand side. A line extends across the page from each task, showing the date work begins and ends on that task or subtask).

Sample Timeline Planning Sheet

Activity: Place print PSAs in up to 25 periodicals, newsletters, or bulletins

- ‰ [Preliminary Work] Design camera-ready PSA “slicks” ;10 person hours.
- ‰ [Weeks 1 & 2] Identify list of potential placement opportunities and get names and addresses of public service director or advertising manager for each publication; (local phone charges); 4-6 person hours.
- ‰ [Week 1] Draft/review/refine cover letter to director/manager; \$0.00; 2 person hours.
- ‰ [Week 2] Print letters; \$0.50 (paper); 1 person hour.
- ‰ [Week 2] Acquire flat envelopes and blank labels for mailing; \$10.00; 1 person hour.
- ‰ [Week 2] Create labels for mailing; \$0.00; 3-4 person hours.
- ‰ [Week 2] Assemble mailing; \$0.00; 2-3 person hours.
- ‰ [Week 2] Mail print PSAs; \$13.75 (.55x25); .25 person hour.
- ‰ [Week 3] Begin follow-up calls to PSA directors to encourage placement; (local calls); 6-8 hours (could be done by 2 persons;).
- ‰ [Weeks 3-10] Monitor PSA placement; \$5.00 to purchase papers; 3-4 person hours.
- ‰ [Week 10] Write report about initiative, its outcomes, midcourse corrections, and things you would do differently next time; \$2.00 paper & repro; 4-6 person hours.
- ‰ [Week 10 or 11] Circulate to appropriate members of your organization; \$0.00; 1-2 person. hours

Total direct costs: \$31.25

Labor: 28-38 person hours (over 4-10 weeks' time after acquiring PSAs)

Step 8: Evaluate and Make Mid-Course Corrections

- Specify times to take stock of progress in completing communications plan.
- Determine strengths and weaknesses.
- Identify obstacles.
- Create and implement new approaches for success.
- Consult with communications technical assistance advisors.

Campaign Planning Worksheet

Consider the following questions when planning a comprehensive communications campaign:

1. What are your short-term and long-term campaign objectives?
2. What is your timeline for completion of the campaign?
3. Who are your target audiences?
4. What are the key communications messages (no more than three, please)?
5. What are your staff and financial resources?
6. What materials and activities will best disseminate these messages?
7. What media have you targeted?
8. What specific roles have you identified for your spokespeople?
9. What role will consortium members, corporate partners, and staff play?
10. How will you evaluate your campaign?