

Dispute Resolution and Enforcement Law DRAFT
Updated: Sept 24, 2014

Definitions	<p>Criminal Offence: an offence as defined by the Criminal Code of Canada.</p> <p>Party or parties: person(s) breaking the laws as resolved under the Land Code.</p>
Preamble	<ol style="list-style-type: none"> 1. This Law provides a confidential, effective and fair way to resolve problems disputes, misunderstandings and disagreements. 2. Responsibility for initiating the dispute resolution process rests with the affected party who is experiencing the problem. 3. The Circle Justice program will be utilized by Atikameksheng Anishinabek for band members and non-band members.
Enforcement Officer	<ol style="list-style-type: none"> 4. An Enforcement Officer will be responsible for handling all land code law enforcement matters on-reserve. 5. The Enforcement Officer will wear a recognisable uniform and work with the Anishinabek police department. 6. The Enforcement Officer will be responsible for all other tasks as outlined in this Law. 7. The Enforcement Officer will report to the Director of Community Assistance. 8. Responsibilities: <ol style="list-style-type: none"> a. Provide public education / awareness of Atikameksheng Anishnawbek First Nation Land Code Laws. b. Promote public safety c. Enforce Land Code Laws in order to ensure a safe environment for all community members. This includes: <ol style="list-style-type: none"> i. Conduct regular patrols and perform daily enforcement activities ii. Perform court related activities iii. Enforce all Land Code Laws iv. Conduct investigations v. Provide guidance and participate in the Circle Justice system vi. Respond to community complaints and concerns vii. Maintain public relations and liaison concerning awareness and enforcement viii. Maintain details records of incidences ix. Prepare reports for presentation to court x. All other duties as assigned and/or required.
Process	<ol style="list-style-type: none"> 9. In order to initiate the process, the dispute/ offence must be registered in writing with the Enforcement Officer. 10. The Enforcement Officer will then meet with each party to determine the merits of the dispute and initiate the dispute resolution process and ensure that all parties are aware of the process as outlined in this Law. 11. Process: <ol style="list-style-type: none"> a. If it is the parties' first offence and it is not a criminal offence, a written warning will be provided to the party by the Enforcement Officer. This warning will include education

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	<p>material on why the law was broken and the importance of the laws in protecting the Atikameksheng Anishnawbek First Nation land.</p> <p>b. If it is the parties' second offence for the same breach of the law, and not a criminal offence, if the party is a:</p> <ul style="list-style-type: none"> i. Atikameksheng Anishnawbek First Nation band member, the member will be provided the option of pay the applicable fine or participate in the circle justice program. The option must be expressed in writing to the Enforcement Officer within 10 days of the dispute/ offence being registered with the Enforcement Officer. If no notice is received within 10 days, the Atikameksheng Anishnawbek First Nation band member will be provided a notice to pay the applicable fine. ii. not an Atikameksheng Anishnawbek First Nation band member, the Enforcement Officer will issue a notice to pay the applicable fine. <p>c. If the fine is not paid within 30 days of the notice being served, the Enforcement Officer provides the party with an official order. This order will be confirmed by a Justice of the Peace.</p>
<p>Circle Justice</p>	<p>12. Circle Justice focuses on the healing of the offender, victim and community. Justice is provided by a volunteer committee whom sentence the offender(s) and then help them lead better lives and live better. These circles are provided as an alternative to paying fine for an offence under the Land Code for Anishnawbek First Nation band members. They are more inclusive of the needs of the community and the offender. They often lead to an organic consensus of what steps should be taken by the offender to correct the harms made by their actions.</p> <p>13. Before the circle justice begins, the Enforcement Officer will be</p> <ul style="list-style-type: none"> a. Listen to any concerns and complaints with respect to a potential dispute/ offence by both parties b. Document the concerns/ complaints with respect to the potential dispute/ offence c. Investigate concerns, take statements, review facts, and provide recommendations for the resolution process to the Chief and Council and the Circle Justice Committee. d. Prepare a final fact finder report with recommendations to the Chief of Council and Circle Justice Committee. This report will identify the need for appropriate outside resources, where necessary and recommend a type of circle to be implemented. <p>14. Once the Enforcement Officer completes their work, the Circle Justice Committee will be convened.</p>

Comment [LM1]: Committee dedicated with own Terms of Reference to follow to ensure all disputes are fairly treated.

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<p>Circle Justice Committee</p>	<p>15. The Circle Justice committee will be designated by the Chief of Council.</p> <p>16. The Circle Justice committee will include the following:</p> <ul style="list-style-type: none"> a. A elder from the community b. A member from the youth council c. The Enforcement Officer d. An Atikameksheng Anishnawbek First Nation councillor e. Appropriate outside resources as designated by the Enforcement Officer. f. Two individuals in support of the offender (family member, friends) to be selected by the offender <p>17. The Circle Justice committee must:</p> <ul style="list-style-type: none"> a. Be respectful b. Communicate Openly c. Create value for both parties d. Have realistic expectations e. Practice integrity f. Use resources and experts g. Be flexible h. Practice equality i. Think long term j. Clarity decision-making processes and responsibilities <p>18. The Circle Justice committee process provides willing individuals the opportunity to actively address the conflict/dispute/offence in an environment that supports healing.</p> <p>19. Once a decision has been made by the Circle Justice committee, the Enforcement Officer will include this decision as part of their final report. This decision will also be provided to the Chief of Council.</p>
<p>Right to Take Legal Action</p>	<p>20. Participants of the circle justice process attend the process freely, of their own will and retain the right to seek legal action if not resolved in a satisfactory manner.</p> <p>21. If the outcome of the circle justice committee is not satisfactory to a party, the party will be required to pay the appropriate fine as outlined by the Enforcement Officer.</p> <p>22. Any information gathered or documented in this process cannot be used in legal proceedings. Any legal actions will be at the financial risk of the party initiating the action.</p>
<p>Prevention</p>	<p>23. Preventing disputes/ offences should be the first priority. This can be done through addressing interests of all parties at the onset and working on positive relationship building.</p> <p>24. The most common ways to prevent potential conflicts/offences includes:</p> <ul style="list-style-type: none"> a) Consensus building- working with both parties to make decisions together through negotiation. b) Negotiated rule making- agreement of the procedures for how discussions will take place. c) Joint problem solving- includes making decisions and problem

Comment [ES2]: Is there one?

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	<p>solving in an open and timely manner.</p> <p>d) Consultation and engagement- ensuring that all parties are engaged in the decision making process and any comments/concerns are addressed in a proactive manner.</p> <p>e) Cross- cultural awareness- ensure an understanding of any cross-cultural misunderstandings or misinformation.</p>
Fines	25. All fines associated with breaking the laws under the Land Code are found in Schedule A .
Records and Reporting	<p>26. All information collected regarding any issue dealt with under this Law shall be kept in confidence. A confidential file shall be maintained by the Enforcement Officer recording the dispute and resolution made.</p> <p>27. A summary report (with any identifying names and details removed to ensure confidentiality) will be provided to the Chief of Council as a public document.</p>

Comment [ES3]: In progress, not yet completed.

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