

SKAWAHLOOK FIRST NATION LAND CODE

Dated for Reference October 18, 2013

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PREAMBLE

The Skawahlook First Nation has occupied the land subject to this Land Code and the land within its traditional territory for time immemorial;

The authority of the Skawahlook to govern its lands and resources flows from the Creator to the people of the Skawahlook, and from the people to the Chief and Council according to the culture, traditions, customs and laws of the Skawahlook;

The Skawahlook managed the land until such time as Her Majesty asserted its control by way of the *Indian Act*;

The Skawahlook wishes to reclaim its authority to manage its lands and resources, rather than having its lands and resources managed on its behalf under the *Indian Act*;

The Skawahlook enacted the Skawahlook First Nation Land Code based on these values, effective August 3, 2010; and

At a community meeting on October 18, 2013, the Skawahlook First Nation Membership voted to repeal and replace the Skawahlook First Nation Land Code with this version of the law;

NOW THEREFORE THE SKAWAHLOOK FIRST NATION LAND CODE IS HEREBY AMENDED.

PART 1: PRELIMINARY MATTERS

Short title

- 1** The Skawahlook First Nation Land Code, the effective date of which is August 3, 2010, is hereby repealed and replaced with this law. This enactment may be cited as the Skawahlook Land Code.

Paramountcy

- 2** 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.
- 3** (1) If there is any inconsistency or conflict between this Land Code and any other enactment of the Skawahlook, this Land Code prevails to the extent of the inconsistency or conflict.

- (2) For the purposes of subsection 3(1), a Skawahlook law is not inconsistent with this Land Code merely because it addresses a subject also addressed in this Land Code.

Non-abrogation

- 4 This Land Code does not abrogate or derogate from any Aboriginal, treaty or other rights or freedoms that pertain to the Skawahlook or its members.
- 5 This Land Code does not abrogate or derogate from the fiduciary relationship between Her Majesty and the Skawahlook or its members.
- 6 This Land Code is not intended to affect the eligibility of the Skawahlook or any member to receive services to participate in such public or aboriginal programs as may be established from time-to-time to the extent that the Skawahlook has not assumed responsibility for such services or programs.

PART 2: LAND ADMINISTRATION AND AUTHORITY

Council authority

- 7 Except as otherwise provided in this Land Code, a law, or the *First Nations Land Management Act*, the Skawahlook acts through Council in exercising its powers and functions under this Land Code, a Skawahlook law, or the *First Nations Land Management Act*.
- 8 Council must exercise its powers and functions in accordance with this Land Code and all other applicable laws.
- 9 Council may establish bodies, including committees, boards or commissions, and may incorporate corporations under federal or provincial laws to manage or administer, or to assist Council in the management or administration of, the land.
- 10 Council may establish mandatory standards, criteria and forms in relation to interests and licences in the land.

Delegation

- 11 Subject to section 12, Council may, by a law or by an instrument, including an agreement, delegate to any body or person, any power or function of Council relating to the management or administration of the land.
- 12 Council may not delegate to any body or person any of the following powers or functions of Council:
 - (1) to dispose of or approve an interest in or licence in relation to the land;

- (2) to enact a law; or
- (3) to delegate a power or function of Council under this Land Code or a law.

13 For certainty,

- (1) a delegation by Council to a body or person under section 11
 - (a) may include all or any part of a power or function of Council relating to the management or administration of the land;
 - (b) may pertain to all or a limited area of the land;
 - (c) is subject to any terms or conditions established by Council under the law or instrument making the delegation; and
 - (d) does not restrict Council from delegating any additional powers or functions of Council to the body or person under another law or instrument, and
- (2) a body or person to which Council delegates a power or function under section 11 may only exercise the power or carry out the function in accordance with this Land Code, the law or instrument making the delegation, and all other applicable laws.

Land Advisory Committee

14 The Land Advisory Committee is hereby established to:

- (1) assist with the development of an administration system in respect of the land;
- (2) advise Council on matters respecting the land;
- (3) recommend laws, resolutions, policies and practices respecting the land to Council;
- (4) convene meetings of members to receive their input or seek their approval on certain land matters as required in this Land Code;
- (5) assist in the exchange of information regarding land matters between members and the Council; and
- (6) perform such other duties and functions as delegated to it by Council.

15 The Land Advisory Committee shall operate pursuant to the Schedule E of this Land Code.

Development of land related rules and procedures

- 16** Within a reasonable time after this Land Code takes effect, Council will, in consultation with the Land Advisory Committee, establish laws, rules, policies and procedures, as may be appropriate, consistent with the Land Code, that address the following matters:
- (1) the process and criteria for granting interests in the land;
 - (2) environmental protection and environmental assessment in relation to the land;
 - (3) land use planning and zoning;
 - (4) any outstanding issues on the resolution of disputes in relation to the land;
 - (5) the management and protection of heritage sites;
 - (6) residency and access;
 - (7) expropriation;
 - (8) standards and qualifications for employees and contractors hired for purposes of implementing and administering this Land Code;
 - (9) respecting spousal property and the policy upon which a spousal property law will be based; and
 - (10) any other matter Council, in consultation with the Land Advisory Committee, deems appropriate.

PART 3: LAND RULES

Division 1: General Rules

Reserve status

- 17** Title to the land is vested in Her Majesty.
- 18** The land is “land reserved for the Indians” under section 91(24) of the *Constitution Act, 1867*, and are set apart by Her Majesty for the use and benefit of the Skawahlook.

Included land

- 19** The land legally described in the Individual Agreement forms the land governed by the Land Code.

Heritage sites

- 20** No development shall be allowed on any site designated as a heritage site under the Skawahlook heritage site law, unless the development receives community approval pursuant to section 102.

Dispositions in writing

- 21** An interest in or licence in relation to the land may only be created, granted, disposed of, assigned or transferred by a written document in accordance with this Land Code.

Existing interests and licenses

- 22** Subject to sections 23 and 24, interests in and licences in relation to the land that are listed in Annex C to the Individual Agreement continue in accordance with their terms and conditions until they expire, terminate, are surrendered or otherwise come to an end in accordance with their terms and conditions or otherwise in accordance with law or equity. Any interests in and licences in relation to the land that are not listed in Annex C to the Individual Agreement will, as of the Land Code effective date, not be enforceable.
- 23** As of the Land Code effective date Council may exercise any power and carry out any function in respect of the interests and licences referred to in section 22 that prior to the Land Code effective date was a power or function of Her Majesty as grantor.
- 24** Existing certificates of possession continue until they are surrendered or come to an end in accordance with this Land Code or otherwise in accordance with law or equity.

Adverse possession or prescription

- 25** No rights may be acquired by any person to, in or over the land, including any interest in or licence in relation to the land, by way of adverse possession or prescription.

Limitations

- 26** A deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which the Skawahlook, a member or any other person purports to grant, dispose of, transfer or assign an interest in the land after the date this Land Code takes effect must conform to the requirements of this Land Code and laws passed pursuant to the Land Code.

- 27 A person who is not a member may hold a mortgage, lease, license, easement or statutory right-of-way in the land, but may not hold a certificate of possession in accordance with this Land Code.

Transfer and assignment of interests

- 28 A member may transfer or assign in writing an interest in the land held by that member to another member or the Skawahlook subject to the terms of the instrument the interest is granted under.
- 29 Except for transfers, assignments or mortgages under sections 28, 40(2) and 41, and transfers that occur by operation of law, including transfers of estates by testamentary disposition or in accordance with a law enacted under section 88:
- (1) there will be no transfer or assignment of an interest in the land without the written consent of Council; and
 - (2) the grant of an interest or license is deemed to include subsection 29(1) as a condition of any subsequent transfer or assignment.

Registration of interests

- 30 Any interest in the land created or granted after this Land Code takes effect is not enforceable unless it is registered in the First Nation Land Register and any applicable registration fees have been paid.
- 31 Any instrument granting an interest in or licence in relation to the land that requires the consent of the Council or community approval shall include a certificate issued by the Land Advisory Committee indicating that the applicable consent or approval has been obtained.
- 32 Any instrument registered in the First Nation Land Register which does not include the certificate referred to in section 31 is void.
- 33 An original copy of the following instruments must be deposited in the First Nation Land Register:
- (1) any grant of an interest in or licence in relation to the land;
 - (2) any transfer or assignment of an interest in or licence in relation to the land;
 - (3) every land use plan, subdivision plan or resource use plan; and
 - (4) this Land Code and any amendment to this Land Code.

First Nation Land Register

- 34** (1) A person may apply for the registration or recording in the First Nation Land Register of an instrument or other document that affects or purports to affect the land.
- (2) Nothing in this Land Code or any other Skawahlook law constitutes a representation or warranty to any person that any instrument or other document is registrable or recordable in the First Nation Land Register.
- (3) Neither Council nor any Skawahlook representative, member of the Skawahlook administration or Land Advisory Committee may make a representation or provide a warranty to any person that any instrument or other document is registrable or recordable in the First Nation Land Register and no act or omission of any of the foregoing constitutes such a representation or warranty.
- (4) Neither Council nor any Skawahlook representative, member of the Skawahlook administration or Land Advisory Committee has any obligation to determine, ensure or confirm for or on behalf of a recipient or holder of an interest in or licence in relation to the land, other than the Skawahlook, that:
- (a) the interest or licence is valid, of force or effect, or in good standing, or
 - (b) the interest or licence has been submitted for registration or recording, or has been registered or recorded, in the First Nation Land Register.

Division 2: Certificates of Possession

General rules

- 35** A Skawahlook certificate of possession in respect of a parcel of land may only be granted to a member.
- 36** Council may only grant a Skawahlook certificate of possession on portions of the land which do not hold any other registered interest.

Council may grant

- 37** Council may grant a Skawahlook certificate of possession to a member in accordance with the policies and procedures established by Council.
- 38** No community approval is required for the issuance of a Skawahlook certificate of possession to members.

- 39** Council shall, upon approval under the policies and procedures established pursuant to section 37, if any,
- (1) issue a Skawahlook certificate of possession to a member for the portion of land allocated to that member; and
 - (2) register the Skawahlook certificate of possession in the name of that member in the First Nation Land Register.

Entitlements

- 40** A certificate of possession entitles the member holding it to:
- (1) possession of the land until a transfer, devising, reversion or disposition under sections 42, 44, 45, 47 and 48 below;
 - (2) grant subsidiary interests in the land, including leases, mortgages of leases, licenses, easements and right-of-ways;
 - (3) transfer, devise or otherwise dispose of the land to another member; and
 - (4) any other rights consistent with this Land Code and consistent with Skawahlook laws, that are attached to certificates of possession under the *Indian Act*.

Interests to Self

- 41** A member granting a subsidiary interest under section 40(2) may grant that subsidiary interest to himself or herself, provided that no such subsidiary interest may have a term exceeding 99 years.

Assignment or transfer by member

- 42** A member may transfer or assign his or her certificate of possession to another member without community approval or the consent of Council by submitting, within thirty (30) days after the transfer or assignment, a statutory declaration, signed by the member transferring or assigning his or her certificate of possession, to Council and the Land Advisory Committee containing:
- (1) the full name of the new holder;
 - (2) the amount paid or any goods or services received as a result of the transfer or assignment;
 - (3) an acknowledgment that the transfer or assignment is permanent and may not be revoked; and

- (4) a statement that such transfer or assignment was made freely.

Registration

- 43 Following a transfer or assignment under section 42, Council shall register the certificate of possession in the name of that member receiving the certificate of possession in the First Nation Land Register.

Ceasing to be a member

- 44 A person who ceases to be a member shall, within six (6) months of ceasing to be a member, transfer any certificate to possession they hold to Skawahlook or to another member.
- 45 When a person who ceases to be a member who does not transfer their certificate of possession in accord with section 44, the certificate of possession shall, six (6) months and one day after the person ceases to be a member, be cancelled and the land described in the certificate of possession shall become community land.
- 46 Where a certificate of possession reverts to Skawahlook under section 45, the person ceasing to be a member shall remain liable for any obligations or monies owing pursuant to the certificate of possession that the person who ceases to be a member held prior to the date the certificate of possession reverts.

Transfer on death

- 47 A member who claims to be entitled to a certificate of possession by testamentary disposition or succession pursuant to the *Indian Act* is not entitled to such certificate of possession until:
- (1) such member has filed with Council an instrument in a form prescribed by Council, duly executed by the personal representative of the estate of the deceased member transferring such certificate of possession to the member; and
 - (2) the instrument referred to in subsection (1) above is registered in the First Nation Land Register.

Transfer on purchase

- 48 A purchaser of a certificate of possession pursuant to section 50(2) of the *Indian Act* is not entitled to such certificate of possession until:
- (1) the purchaser has filed with Council an instrument in a form prescribed by Council, duly executed by the person authorized under the *Indian Act* to execute a transfer of the certificate of possession acquired pursuant to the *Indian Act*; and

- (2) the instrument referred to in paragraph (1) above is registered in the First Nation Land Register.

Errors and revocation

- 49 From time to time, Council may develop policies relating to the correction of errors made in the granting of Skawahlook certificates of possession and the potential revocation of Skawahlook certificates of possession where certain errors are made.

No effect on certificates of possession

- 50 Despite the transfer and expropriation provisions in this Land Code, nothing in this Land Code prevents a member with a certificate of possession from transferring all or a portion of their interest in the land to Skawahlook for fair market value or other agreed-upon compensation. Such transfers do not require community consultation or approval.

Division 3: Interests and Licences in Community Land

New interests

- 51 As of the effective date, Council may grant interests in and licences in relation to the community land, including the following, and the maximum term for such interest or licence that Council may grant is as follows:

Interest	Maximum term
Lease	99 years
Certificate of possession	no limit
Easement or statutory right-of-way	for as long as so required
Licence of occupation	10 years
Natural resource licence	25 years
Utility licence	for as long as so required
Mortgage of lease	term of lease
Mortgage of certificate of possession	no limit

- 52 In granting the interests set out in section 51, Council may attach specific conditions to the grant of these interests, but such conditions must be set out in writing in the instruments granting the interests.

Leases under 50 years

- 53** Council may grant a lease of community land for a term of up to forty-nine (49) years, provided that such grant must be recommended by the Land Advisory Committee.

Leases between 50 and 99 years

- 54** Council may grant a lease of community land for a term of between fifty (50) years and ninety-nine (99) years, if the grant is first:
- (1) recommended by the Land Advisory Committee; and
 - (2) receives community approval pursuant to section 103 of this Land Code.

Easements, statutory rights of way and utility licences

- 55** Council may grant an easement, statutory right-of-way or utility licence over community land, if the grant is first recommended by the Land Advisory Committee and is made to any of the following:
- (1) the Skawahlook, an agency of the Skawahlook or a corporation owned by the Skawahlook;
 - (2) Her Majesty, an agency of Her Majesty or a corporation owned by Her Majesty;
 - (3) the Province, an agency of the Province or a corporation owned by the Province;
 - (4) a municipality, an agency of the municipality or a corporation owned by the municipality;
 - (5) a public utility; or
 - (6) a railway corporation (with respect to easements and statutory rights-of-way only).

Licences of occupation

- 56** Council may grant a licence of occupation over community land for a term of up to ten (10) years, if the grant is first recommended by the Land Advisory Committee.

Natural resource licences of 10 years or less

- 57** Council may grant a natural resource licence over community land for a term of up to ten (10) years, if the grant is first:

- (1) recommended by the Land Advisory Committee; and
- (2) presented to members for community input pursuant to section 100.

Natural resource licences between 10 and 25 years

58 Council may grant a natural resource licence over community land for a term of between ten (10) and twenty-five (25) years, if the grant is first:

- (1) recommended by the Land Advisory Committee; and
- (2) receives community approval pursuant to section 102.

Easements

59 Council may reserve or grant an easement over community land in favour of the Skawahlook, a member or in favour of the holder of a lease on the land if the grant is first:

- (1) recommended by the Land Advisory Committee; and
- (2) presented to members for community input pursuant to section 100.

Division 4: Mortgages and Charges

Mortgages and charges of member interests

60 A certificate of possession may be subject to a mortgage or charge, but only in favour of the Skawahlook or a Skawahlook controlled entity and with the written consent of Council.

61 Except for a mortgage of a member's leasehold interest to himself or herself under section 41, a member's interest in land may only be subject to a mortgage in favour of the Skawahlook or a Skawahlook controlled entity and with the written consent of Council.

62 A mortgage of a member's leasehold interest may be granted by a document registered in the First Nation Land Register provided that:

- (1) the land is in the sole possession of the leaseholder granting the mortgage;
- (2) the leaseholder holder holds the entire beneficial interest in the lease;
- (3) the granting of the mortgage and the terms of the mortgage are permitted by the provision of the certificate of possession, and the lease;

- (4) there is a proper legal description of the lands that are subject to the mortgage, and if required, the lands have been surveyed and the survey registered in the First Nation Land Register; and
- (5) the term of the mortgage does not exceed the term of the lease.

Mortgages and charges of leasehold interests in Community Land

63 A leasehold interest in community land may be subject to mortgage or charge, in accordance with sections 64 and 103(9) of this Land Code provided;

- (1) the written consent of the Council has been obtained;
- (2) the terms of the mortgage or charge are permitted by the lease; and
- (3) community approval has been obtained, if applicable.

64 The term of any charge or mortgage of a leasehold interest in community land shall not exceed the lesser of

- (1) the term of the lease; or
- (2) forty-nine (49) years, or such longer period as may receive community approval.

65 Subject to sections 63 and 64, a mortgage of a leasehold interest in community land may be granted by a document registered in the First Nation Land Register provided that:

- (1) the land is in the sole possession of the leaseholder granting the mortgage;
- (2) the leaseholder holds the entire beneficial interest in the leasehold;
- (3) the granting of the mortgage and the terms of the mortgage are permitted by the provision of the lease;
- (4) there is a proper legal description of the lands that are subject to the mortgage, and if required, the lands have been surveyed and the survey registered in the First Nation Land Register; and
- (5) in the event of default in the terms the mortgage, 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 received community approval where required;

- (c) the charge or mortgage was registered in the First Nation Land Register;
and
- (d) not less than 30 days to redeem the charge or mortgage is given to
Council on behalf of the Skawahlook.

66 If Council exercises its power of redemption with respect to a leasehold interest, the Skawahlook becomes the lessee of the land and takes the position of the chargor or mortgagor for all purposes after the date of the redemption.

Protection

67 In accordance with the Framework Agreement, section 29, 87, 89(1), 89(1.1) and 89(2) of the *Indian Act* continue to apply to the land.

Division 5: Expropriation

Rights and interests that may be expropriated

68 Subject to the provisions of this Division 5, Council may expropriate all or part of an interest in or licence in relation to the land if, in the opinion of Council, it is necessary for community works or a community purpose.

Limits on expropriation

- 69** Council may not expropriate all or a part of an interest in or licence in relation to the land unless:
- (1) such expropriation is made in accordance with the *Framework Agreement* and any Skawahlook law enacted for the purpose of establishing the rights and procedures for community expropriations which addresses,
 - (a) a procedure governing the expropriation process, including the provision of reasonable notice to the holder of the interest or licence;
 - (b) a method of determining fair compensation to be paid to the holder of the interest or licence; and
 - (c) a procedure for the resolution of disputes regarding the amount of compensation to be paid to the holder of the interest or licence; and
 - (2) the Skawahlook has provided written notice to the holder of the interest or licence in the land;
 - (3) the Skawahlook made a good faith effort to acquire, by mutual agreement, the holder's interest or licence in the land; and

- (4) in the case of an expropriation of a member's interest, the expropriation has received community approval.

70 An interest of Her Majesty or an interest obtained under section 35 of the *Indian Act* is not subject to expropriation by the Skawahlook.

Division 6: Voluntary Land Exchanges

Land exchange conditions

71 The Skawahlook may exchange a parcel of the land for other land if the following conditions are satisfied:

- (1) such exchange is made in accordance with section 27(1) of the *First Nations Land Management Act*;
- (2) the value of the third party exchange land is at least comparable to the appraised value of the Skawahlook exchange land;
- (3) the third party exchange land is equal to or greater in size than the area of the Skawahlook exchange land;
- (4) Her Majesty has:
 - (a) agreed that the third party exchange land shall be set aside as reserve land subject to this Land Code; and
 - (b) consented to the manner and form of exchange between the Skawahlook and the holder of the third party exchange land; and
- (5) the land exchange receives community approval.

Additional land

72 The Skawahlook may negotiate for other forms of compensation, such as money or one or more other parcels of land, in addition to the third party exchange land. Such other parcels of land may be held by the Skawahlook in fee simple or some other manner.

Notice

73 Once negotiations on the land exchange agreement are concluded, Council shall provide the following information to members eligible to vote at least twenty-one (21) days before the community vote to approve the exchange:

- (1) a description of the Skawahlook exchange land;

- (2) a description of the third party exchange land;
- (3) a description of any other compensation to be received by the Skawahlook;
- (4) a report of a certified land appraiser setting out that the conditions in section 71(2) have been met;
- (5) a copy or summary of the exchange agreement; and
- (6) a copy of the consent referred to in section 71(4).

Land exchange agreement

74 The land exchange agreement shall provide that:

- (1) the third party to the exchange must transfer to Her Majesty the title of the third party exchange land;
- (2) Council must pass a resolution authorizing Her Majesty to transfer title to the Skawahlook exchange land, in accordance with the exchange agreement; and
- (3) copies of the instruments transferring title to the third party exchange land and the Skawahlook exchange land must be registered in the First Nation Lands Register.

PART 4: LAW ENACTMENTS AND LAND CODE AMENDMENTS

Division 1: General Rules

Law-making powers

75 The Council may make laws, in accordance with this Land Code and the *First Nations Land Management Act*, including laws respecting the development, conservation, protection, management, use and possession of the land and interests and licenses in relation to the land. This power includes the power to make laws in relation to any matter necessary or ancillary to the making of laws respecting the land and the interests and licences in relation to the land.

Administration

76 Council will perform all the duties and functions, and exercise all of the powers, of the Skawahlook that are not specifically assigned to an individual or body established under this Land Code.

Delegation

- 77 Notwithstanding section 76, Council may, by enacting a law, delegate administrative authority in relation to a law enacted under section 75 to any body or person established or authorized under this Land Code.

Law-making procedure

- 78 A proposed law may be introduced at a duly convened meeting of the Council by
- (1) the Chief or a Councilor; or
 - (2) a representative of the Land Advisory Committee or other body composed of members that may be authorized by Council to do so.
- 79 Before a proposed law may be enacted by the Council:
- (1) Council must comply with the provisions in this Part 4 relating to the Land Advisory Committee and community input or approval, as applicable;
 - (2) a proposed law must be tabled at a meeting of the council held at least twenty-eight (28) days before the law is to be voted upon; and
 - (3) a proposed law must be posted in the band office and on the Skawahlook website at least twenty-one (21) days before the law is to be voted upon.
- 80 A law is enacted if it is approved by a majority of the Council at a meeting of the Council open to the members.
- 81 The original copy of any law or resolution concerning the land shall be signed by a quorum of Council present at the meeting at which it was enacted.

Urgent matters

- 82 The Council may enact a law without the preliminary steps required under section 79, if the Council is of the opinion that the law is needed urgently to protect Skawahlook land or the members.
- 83 Any law enacted pursuant to section 82 shall expire one-hundred-twenty (120) days after its enactment, unless re-enacted in accordance with section 81.

Publication of laws

- 84 All laws shall be published in the minutes of Council.
- 85 Within seven (7) days after a law has been enacted, Council shall post a copy of the law in the administrative offices of the Skawahlook.

- 86** Council shall cause to be kept, at the administrative offices of the Skawahlook, a register of the original copy of all laws and resolutions, including laws and resolutions that have been repealed or are no longer in force.
- 87** Any person may obtain a copy of a law or resolution on payment of a reasonable fee set by Council.

Commencement of laws

- 88** A law enacted by Council takes effect on the date of its enactment or such later date as specified by the law.

Spousal property law

- 89** Council shall enact a spousal property law providing rules and procedures applicable on the breakdown of a marriage relating to
- (1) the use, occupancy and possession of the land; and
 - (2) the division of interests in that land.
- 90** The rules and procedures contained in the spousal property law shall be developed by the Land Advisory Committee in consultation with members.
- 91** The spousal property law must be enacted within twelve (12) months from the effective date.

Division 2: Rules Regarding Meetings of Members

General rules

- 92** The Land Advisory Committee shall, within a reasonable time after this Land Code takes effect, enact procedures for the conduct of meetings of members.
- 93** Council may, in its sole discretion, schedule more than one meeting of members to discuss and decide on any matter referred to in sections 101 or 103, provided that any vote taken at a meeting of members will not be accumulated with any vote taken at a subsequent meeting of members.
- 94** Nothing precludes Council or the Land Advisory Committee from holding meetings with members concerning land matters in conjunction with any other meeting of members.

Notice

- 95** The Council shall give written notice of the meeting of members

- (1) specifying the date, time and place of such meeting; and
 - (2) containing a brief description of the matters to be discussed and voted upon at such meeting.
- 96** The notice of a meeting of members must be given to the members by
- (1) posting the notice in a public place on the land at least twenty (21) days before the meeting;
 - (2) mailing the notice to members at their last known address at least twenty (21) days before the meeting;
 - (3) posting the notice on the Skawahlook’s website at least twenty (21) days before the meeting; and
 - (4) such additional methods as the Council may consider appropriate in the circumstances.

Rights of eligible voters

- 97** The quorum for a meeting of members under this Land Code is ten percent (10%) of the members eligible to vote.
- 98** Each member who is eighteen (18) years of age or older as of the date of a vote is eligible to vote at a meeting of members.
- 99** Decisions at a meeting of members are to be made by a majority vote of the eligible voters present at the meeting.
- 100** All members have a right to attend a meeting of members and non-members may attend with the permission of the Council.

Division 3: Community Input

Community input required

- 101** The Land Advisory Committee shall convene a meeting of members to receive their input prior to:
- (1) the introduction of a law, or amendments thereto,
 - (a) respecting a community plan or subdivision plan;
 - (b) respecting a heritage site or an environmentally sensitive property;
 - (c) respecting environmental assessment;

- (d) respecting the transfer and assignment of interests in the land; and
 - (e) respecting the rate and criteria for the payment of fees or rent for land; and
- (2) any other law or class of law that Council, by resolution, declares to be subject to this section;
 - (3) any grant or disposition of any natural resources on the land for a term of ten (10) years or less; or
 - (4) any reserve or grant of an easement over community land in favour of the Skawahlook, a member or in favour of the holder of a lease on the land.

102 Nothing in this Land Code precludes Council or the Land Advisory Committee from consulting with other advisors or representatives of other jurisdictions, including other First Nations, municipal corporations and regional districts, to develop and implement the laws referred to in section 74.

Division 4: Community Approval

Community approval required

103 The Land Advisory Committee shall convene a meeting of members to seek their approval which must be obtained in respect of the following matters:

- (1) any amendment to Parts 1 through 4 of this Land Code;
- (2) any land use plan or amendments thereto;
- (3) any expropriation of a member's interest in the land;
- (4) any grant or disposition of an interest or licence in community land exceeding a term of forty-nine (49) years;
- (5) any renewal of a grant or disposition of an interest or licence in community land that extends the original term beyond forty-nine (49) years;
- (6) any grant or disposition of any natural resources on the land for a term of between ten (10) and twenty-five (25) years;
- (7) any development of a heritage site referred to in section 20 of this Code;
- (8) any voluntary exchange of the land;
- (9) a charge or mortgage of a leasehold interest on community land exceeding a term of forty-nine (49) years;

- (10) any law on spousal property enacted pursuant to section 89 and amendments thereto; and
- (11) any law or class of law that Council, by resolution, declares to be subject to this section.

PART 5: MISCELLANEOUS

Schedules

104 The Schedules to this Land Code form part of the Land Code.

Liability

105 Council shall arrange and maintain insurance coverage for its officers and employees engaged in carrying out in good faith any responsibilities related to the land to indemnify them against personal liability arising from the performance of those duties.

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

107 Every employee of the Skawahlook whose responsibilities include land administration or collecting or accounting for land revenue must be bondable.

108 The Skawahlook is not liable for anything done or omitted to be done by Canada or any person or body authorized by Canada in the exercise of any federal rights, powers or responsibilities prior to the Land Code effective date.

109 The Land Code is not, and must not be interpreted as being, a waiver by the Skawahlook in respect of any liabilities, acts or omissions of Her Majesty.

Coming into force

110 (1) This section comes into force on the day the validity of this Land Code is certified under section 14 of the *First Nations Land Management Act*.

(2) The remaining provisions of the Land Code come into force on the date on which Council brings those provisions into force by resolution.

Schedule A

RULES OF INTERPRETATION

Application

- 1 Every provision of this schedule applies to the Land Code or any amendment thereto, to any schedule, and to any law created pursuant to the Land Code.
- 2 The provisions of this schedule apply to this schedule.

Words and expressions defined

- 3 The following definitions apply in this Land Code and in any amendment thereto:

“certificate of possession” means documentary evidence issued under this Land Code or formerly issued under s. 20(2) of the *Indian Act* of a member’s allotment of part of the land described thereon;

“community land” means any land that is not subject to a certificate of possession;

“community purpose” means a purpose the achievement of which will directly or indirectly benefit the Skawahlook, members or persons residing on Skawahlook land;

“community works” means the establishment or continuation of works which will directly or indirectly benefit the Skawahlook, members or persons residing on Skawahlook land;

“Council” means the Chief and Council of the Skawahlook;

“effective date” means the date the Land Code is brought into force pursuant to 109(2) of the Land Code;

“eligible voter” means, for the purpose of voting in respect of any matter pursuant to this Land Code, a member who has attained the age of eighteen (18) years of age on the day of the vote;

“fair compensation” means, in the context of expropriation, compensation that takes into consideration the following:

- (1) the market value of the interest that is being expropriated;
- (2) the replacement value of any improvement to the land that is being expropriated;
- (3) the damages attributable to any disturbance; and

(4) damages for any reduction in the value of a remaining interest.

“First Nations Land Management Act” means the *First Nations Land Management Act (Canada)*, S.C. 1999, c. 24;

“First Nations Land Register” means the register maintained by the Department of Indian Affairs and Northern Development pursuant to the *Framework Agreement*;

“Framework Agreement” means the *Framework Agreement on First Nation Land Management* initially entered into between the Minister of Indian and Northern Affairs and the Chiefs of thirteen First Nations on February 12, 1996, as amended, and entered into by the Skawahlook on March 6, 2008;

“function” includes a responsibility, duty and obligation;

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

“immediate family” means a spouse (including a common-law spouse), parent, grandparent, child (including adopted children or those living with you as your child), grandchild or sibling. Immediate family also includes the spouse (including common-law spouse) of an immediate family member;

“Indian Act” means the *Indian Act*, R.S.C. 1985, c. I-5;

“Individual Agreement” means the Individual Agreement made between Skawahlook and Her Majesty the Queen in right of Canada under s. 6(3) of the *First Nations Land Management Act*, as amended or replaced from time to time;

“interest” means, in relation to the land, an interest as defined in the *First Nations Land Management Act*;

“land” means Skawahlook Indian Reserve No. 1 and Ruby Creek Indian Reserve No. 2 ;

“Land Code” means the Skawahlook Land Code and any amendment thereto;

“Land Exchange” means an exchange of land pursuant to Part 3, Division 6 of the Land Code;

“Land Advisory Committee” means the Land Advisory Committee established pursuant to section 14 of the Land Code;

“law” means any law enacted pursuant to the Land Code;

“licence” means, in relation to Skawahlook land, a licence as defined in the *First Nations Land Management Act*;

“**licence of occupation**” means a licence for a primary purpose other than extracting or harvesting natural resources or providing utility services;

“**majority**” means more than fifty (50%) percent of the votes cast;

“**market value**” means the amount that would have been paid for the interest if it had been sold on the reserve by a willing seller to a willing buyer under no duress;

“**meeting of members**” means any meeting under Part 4, Division 2 of the Land Code to which members are invited to attend;

“**member**” means a person whose name appears or is entitled to appear on the Skawahlook band membership list;

“**panel**” means the Dispute Resolution Panel established pursuant to Schedule B to resolve disputes under the Land Code;

“**panelist**” means a person (member or non-member) appointed by Council to act as a member of the Dispute Resolution Panel;

“**power**” includes a right, privilege and authority;

“**Province**” means her Majesty the Queen in Right of the Province of British Columbia;

“**registered interest**” means an interest on the land registered in the First Nation Land Register;

“**resolution**” means a resolution of the Council;

“**resources**” means all resources belonging to the land including, but not limited to, the water, beds underlying water, riparian rights, and renewable and non-renewable natural resources belonging to that land, to the extent that these are under the jurisdiction of Her Majesty;

“**Skawahlook**” means the Skawahlook First Nation, a band within the meaning given to “band” in subsection 2(1) of the *Indian Act*;

“**Skawahlook certificate of possession**” means documentary evidence of a certificate of possession issued under this Land Code of a member’s allotment of part of the land described thereon;

“**Skawahlook exchange land**” means the land to be transferred by the Skawahlook pursuant to Part 3, Division 6;

“third party exchange land” means the land to be received by the Skawahlook pursuant to Part 3, Division 6.

General rules of interpretation

- 4 The following rules apply in this Land Code and in any amendment thereto:
- (1) The definitions as set forth in the Framework Agreement and *First Nations Land Management Act* shall have the same meaning in this Land Code;
 - (2) Where the time limited for the doing of an act expires or falls on a Saturday or Sunday or a federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday;
 - (3) Where the time limited for the doing of an act in the Skawahlook administration building falls on a day when the office is not open during regular business hours, the act may be done on the next day that the office is open;
 - (4) 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;
 - (5) The principles set out in the preamble to this Land Code may be used to interpret this Land Code; and
 - (6) In this Land Code:
 - (a) The use of the word “shall” denotes 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;
 - (b) 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”;
 - (c) Headings and subheadings are for convenience only, do not form a part of this Land Code and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Land Code;
 - (d) A reference to a statute includes every amendment to it, every regulation made under it and any Law enacted in substitution for it or in replacement of it;

- (e) Unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular;
and
- (f) 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.

Schedule B

DISPUTE RESOLUTION

PART 1: PANELISTS

General rules

- 1** Skawahlook intends that, wherever possible, a dispute in relation to Skawahlook land will be resolved through informal discussion by the parties to the dispute and nothing in this Schedule will be construed to limit the ability of any person to settle a dispute without recourse to this process.
- 2** The Panel is established as of the effective date.
- 3** Panelists shall be appointed to the Dispute Resolution Panel for a term of three years.

Impartiality

- 4** Panelists shall act impartially and without bias or favour to any party in a dispute.
- 5** Panelists may not act, or attempt to act, in a way to improperly influence a decision of the panel.

Panelists

- 6** The panel shall be comprised of five (5) panelists as of the effective date.
- 7** Council shall initially appoint:
 - (1) one panelist to a one year term;
 - (2) two panelists to a two year term; and
 - (3) two panelists to three year terms.
- 8** Subsequently, Council shall appoint panelists to three year terms.
- 9** If a panelist resigns, is removed or is otherwise incapable of serving as a panelist, Council shall appoint a panelist to serve as a member of the panel effective immediately for the remainder of the term of the panelist who is removed or who becomes incapable of serving as a panelist.

Remuneration

- 10** The Council shall determine the remuneration to be paid to the panelists, if any.

11 Nothing in section 10 requires that the panelists receive any remuneration.

Selection

12 In selecting the panelists, Council shall consider the prospective appointee's qualifications, impartiality, and appropriate representation of the membership.

13 Panelists may not have a criminal record.

Removal of a panelist

14 Council has the discretion to remove a panelist where the Council has received credible information, that it has made its best efforts to confirm, that a panelist has not acted impartially or has acted with bias or favour to any party in a dispute or has improperly influenced a decision of the panel or has a criminal record.

PART 2: BRINGING DISPUTES

Who may bring a dispute

15 Any member or other person whose registered interest in the land is affected by a decision of the Council or Land Advisory Committee may appeal the decision to the panel.

16 Council may also bring a dispute to the panel when it asserts an interest in the land or when disputing the possession, use or occupation of the land.

17 If one person brings a dispute to the panel, and if the panel accepts jurisdiction to hear the dispute, all other persons affected by that dispute are bound by the jurisdiction of the panel.

Panel procedures

18 Applications to the panel must be made in accordance with the procedures established by the panel.

Prior to bringing a dispute

19 If a member or non-member with an interest in First Nation land has a dispute with the Land Advisory Committee or with Council, including with any decision affecting the member's or non-member's registered interests in land taken by such bodies, the member or non-member must first attempt to resolve that dispute with the Council or the Land Advisory Committee according to the dispute resolution rules set up by such bodies.

- 20** If Council or the Land Advisory Committee do not have dispute resolution rules, a member or non-member referred to in section 15 may bring an application for dispute resolution to the Dispute Resolution Panel.
- 21** An application to refer a dispute to the panel shall be made:
- (1) within 30 days after the day the decision, act or omission being referred was made; or
 - (2) in the case of a dispute with the Land Advisory Committee or the Council, 30 days after the Land Advisory Committee or Council rejects the attempts at resolution made under section 19.

Panel of three

- 22** Disputes referred to the panel are to be heard by three panelists, chosen as follows:
- (1) one panelist is to be chosen by each of the parties to the dispute; and
 - (2) one panelist, who is to be the chairperson, is to be chosen by the two panelists chosen by each of the parties to the dispute.
- 23** Where there are more than two parties to a dispute:
- (1) the panelists must be chosen at random;
 - (2) once the panelists are chosen pursuant to (a) above, each party must have the right to exercise a single veto; and
 - (3) following the exercise of a veto or vetos pursuant to (b) above, the panelists must again be chosen at random.

PART 3: POWERS OF PANEL

Rules of Panel

- 24** The panel may establish rules for its hearings and for the conduct of its affairs.
- 25** Any rules established by the panel must comply with the principles of natural justice.

Powers of panel

- 26** The panel may, after hearing a dispute:

- (1) confirm or reverse the decision, in whole or in part;
 - (2) substitute its own decision for the decision in dispute;
 - (3) direct that an action be taken or ceased; or
 - (4) refer the matter or dispute back for a new decision.
- 27** 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.
- 28** The panel may obtain the services of professionals to assist it in fulfilling its functions.

Written decisions

- 29** Decisions of the panel must be in writing, signed by the person chairing the panel or by an officer designated by the panel to do so.
- 30** The panel may give reasons for its decision at its discretion.

Appeal of decision

- 31** A decision of the panel may be appealed to the Federal Court (Trial Division).

Schedule C

CONFLICT OF INTEREST

Application

- 1 This part applies only to a conflict of interest relating to the management and administration of the land.

General duties and definitions

- 2 Council members shall avoid a conflict of interest or the appearance of a conflict of interest and shall not be involved in any transaction or matter where they are in a conflict of interest or appear to be in a conflict of interest.
- 3 A conflict of interest arises in any situation where a Council member or person in their immediate family has a personal or business interest in a transaction or matter under consideration by Council.
- 4 No conflict of interest or appearance of a conflict of interest arises where:
 - (1) the only benefit derived by an immediate family member is as an employee of a person or business entering into a transaction with, or having a matter determined by, Council;
 - (2) the Council member or his or her immediate family member is a beneficiary or shareholder of a corporation, society or other entity owned or controlled by Skawahlook entering into a transaction with Council or having a matter determined by Council;
 - (3) the Council member or his or her immediate family holds an interest in the same manner and under the same conditions as other members of Skawahlook;
 - (4) a Council member guarantees repayment of or otherwise assumes liability to repay a loan made to Council or the Skawahlook;
 - (5) Council enacts a Skawahlook law setting reasonable remuneration, holidays, sick leave and benefits for services of Council members as elected officials of Skawahlook; or
 - (6) Council agrees to indemnify or reimburse the Council member for expenses or liabilities reasonably incurred in their duties or arranges for insurance against risks undertaken in the carrying out of their duties.
- 5 A transaction which may give rise to a conflict of interest or the appearance of a conflict of interest may be approved by resolution in accordance with this part.

Procedure where there is a conflict of interest or appearance of a conflict of interest

- 6** A Council member who has, or believes that he or she has, a conflict of interest shall disclose the nature and extent of the conflict at the first Council meeting after the conflict becomes known to the Council member. The disclosure must be made when the conflict first becomes known to the individual, whether or not the transaction or matter in question has already been concluded.
- 7** Where the interest of a Council member has not been disclosed as required by section 6 by reason of his or her absence from the meeting at which the matter was first raised, the Council member shall disclose the interest and comply with this part at that next meeting of Council.
- 8** If a Council member is in doubt whether he or she is in a conflict of interest, he or she may request a decision of Council on whether there is a conflict of interest.
- 9** After declaring the conflict of interest, the Council member shall leave the meeting where the matter is being considered, not be counted in the quorum, nor participate in the discussion or vote on the matter in question.
- 10** A Council member who has a conflict of interest, shall not attempt in any way, whether before or after the Council meeting, to influence the discussion or vote on the matter in question.
- 11** Every declaration of a conflict of interest and the general nature thereof shall be recorded in the minutes of the Council meeting.
- 12** Notwithstanding section 2, Council may approve a transaction by resolution where:
 - (1) any Council member with a conflict of interest has complied with sections 6 to 10 of this part; and
 - (2) Council determines the transaction is fair and reasonable.
- 13** The failure of a Council member to provide Council with sufficient information to assess the nature of an interest involved in the transaction invalidates any authorization given under this section.
- 14** Any resolution authorizing a transaction may make the authorization conditional upon the affected Council member taking steps or following procedures that may be necessary to protect the interests of Council or the Skawahlook or to safeguard the community's trust in the conduct of Council's activities.
- 15** Where as a result of a conflict of interest a quorum of Council cannot be established, the matter shall be brought before a membership meeting.

- 16** Notice of the membership meeting required under section 15 shall be provided to the membership at least twenty-one (21) days before the meeting and shall include:
- (1) the date, time and place of the membership meeting;
 - (2) a summary of the proposed transaction and the conflict of interest to be considered at the membership meeting;
 - (3) notification that a full copy of a report on the transaction and conflict of interest can be obtained at the Skawahlook administration building; and
 - (4) a statement that a determination of how to proceed on the proposed transaction will be made by a vote of eligible voters present at the membership meeting.
- 17** Notice of the membership meeting required under section 15 shall be provided by:
- (1) mailing a written notice to eligible voters at their last known address at least twenty-one (21) days before the meeting;
 - (2) posting the notice in a public place on the land at least twenty-one (21) days before the meeting; and
 - (3) posting the notice on the Skawahlook's website at least twenty-one (21) days before the meeting.
- 18** At the membership meeting Council shall explain the report on the transaction and conflict of interest and members may ask questions and provide comments.
- 19** Upon completion of the discussion, the eligible voters, including those Council members not in conflict, present at the membership meeting shall vote on whether to approve the transaction with or without conditions, reject the transaction or make such other decision as may be appropriate in the circumstances.
- 20** The decision of the majority of eligible voters present at the membership meeting shall be recorded in the minutes and shall have the same effect as a resolution, where no conflict of interest had existed. If a resolution is required for the transaction in question, a resolution may be passed as if no conflict of interest had existed.

Competition with Skawahlook owned businesses

- 21** No Council member shall, during the term of his or her office, engage either directly or indirectly in any manner as a partner, officer, director, shareholder, advisor, employee, or in any other capacity, in any business similar to one carried on by the Skawahlook, without first:
- (1) complying with the provisions of this part; and

- (2) obtaining a resolution, in accordance with this part, approving their participation in the business or activity that is similar to the one carried on by the Skawahlook.

Use of Council property or information

- 22 A Council member shall not use property owned by the Skawahlook for personal or business purposes nor purchase property owned by the Skawahlook, unless such purposes or purchases are equally available to all members, and the transaction is approved in accordance with sections 6 to 20 of this part.
- 23 A Council member shall not take personal advantage of an opportunity available to Council, unless Council clearly has decided against pursuing the opportunity and the opportunity is subsequently made equally available to all members.
- 24 A Council member shall not use his or her position for the personal or business benefit of themselves or an immediate family member. This duty does not prevent a Council member or their immediate family members from transacting business with others who do business with Council, provided there is compliance with this part.
- 25 A Council member shall not make use in any way of information received as a consequence of, or in the course of, his or her position as a Council member for their personal or business benefit or for the personal or business benefit of any immediate family member.

Gifts

- 26 A Council member shall not solicit, receive or accept a gift or service where such action could reasonably be inferred to influence a Council member in the discharge of their duties.
- 27 Where a gift is given to a Council member in their capacity as a Council member, he or she shall advise Council and the gift shall become the property of the Skawahlook.
- 28 Notwithstanding sections 26 and 27, gift giving or receiving is permitted in recognition of a Council member's service to the community or to aboriginal causes or institutions.

Liability for violation of conflict of interest provisions

- 29 In addition to any other penalty or remedy, a Council member is liable to Skawahlook for any personal or business benefit to themselves or an immediate family member resulting from a violation of this part.

Schedule D

FINANCIAL MANAGEMENT

PART 1: GENERAL RULES

Application

- 1** This section applies only to financial matters relating to the management and administration of Skawahlook land.

Establishment of bank accounts

- 2** The Council shall maintain one or more financial accounts in a financial institution and shall deposit in those accounts
 - (1)** transfer payments received from Canada for the management and administration of Skawahlook land;
 - (2)** moneys received by Skawahlook from the grant or disposition of any interests or licences in Skawahlook land;
 - (3)** all fees, fines, charges and levies collected under a land law or land resolution;
 - (4)** all capital and revenue moneys received from Canada from the grant or disposition of any interests and licences in Skawahlook land; and
 - (5)** any other land revenue received by Skawahlook.

Signing officers

- 3** The Council shall authorize at least three persons, at least one of whom shall be a member of the Council, to sign cheques and other bills of exchange or otherwise transact on the accounts.

Bonding

- 4** Every signing officer must be bondable.

Two signatures

- 5** A cheque or other bill of exchange or transfer drawn on the account must be signed by two of the persons authorized to sign cheques and other bills of exchange or otherwise transact on the account pursuant to section 3.
- 6** A signing authority in section 3 shall not sign a cheque for which they are the payee.
- 7** Any signing authority who violates section 6 is subject to having the cheque signed in violation voided and is also personally liable for any costs incurred by the Skawahlook as a result of the cheque being signed in violation.

Fiscal year

- 8 The fiscal year of the Skawahlook begins on April 1 of each year and ends on March 31 of the following year, unless otherwise fixed by Council.

Adoption of budget

- 9 The Council shall, by resolution, prior to the beginning of each fiscal year, adopt a land management budget for that fiscal year as a part of its regular budget process and may, if the Council deems it necessary in the course of the fiscal year, adopt supplementary budgets for that fiscal year.
- 10 Prior to adopting a land management budget or supplementary budgets as referred to in section 9, Council will consult with the Land Advisory Committee.

Procedure

- 11 After adopting the land management budget or a supplementary budget, the Council shall, as soon as practicable:
 - (1) explain the budget or supplementary budget to the members at an annual community meeting; and
 - (2) have a copy of the budget or supplementary budget available at the Skawahlook administrative office for inspection by members at reasonable hours by appointment.

If no budget

- 12 If the Council fails to adopt a land management budget for a fiscal year prior to the beginning of that fiscal year, the budget and any supplementary budgets of the previous fiscal year apply until a new budget is adopted.

Budget rules

- 13 Subject to sections 8 and 9, the Council may make rules respecting the preparation and implementation of land management budgets.

Expenditures

- 14 The Council may not expend moneys related to land or commit itself, by contract or otherwise, to expend moneys related to land, unless the expenditure is authorized by or under a law or an approved budget.

Financial policy

- 15 The Skawahlook may, in accordance with this Land Code, adopt a financial policy to further manage moneys related to the land.

PART 2: FINANCIAL RECORDS

Financial records

- 16 The Skawahlook shall keep financial records related to the land in accordance with generally accepted accounting principles.

Preparation of financial statement

- 17 Within 90 days after the end of each fiscal year, the Council, on behalf of the Skawahlook, shall prepare a financial statement in comparative form, containing at a minimum
- (1) a balance sheet;
 - (2) a statement of revenues and expenditures and a comparison of these with the amounts stated in the land management budget and any supplementary budget; and
 - (3) any other information necessary for a fair presentation of the financial position of the Skawahlook in relation to the land.

Consolidated accounts

- 18 The accounting, auditing and reporting requirements of this Land Code may be done together with, and consolidated with, the other accounts, audits and reports of the Skawahlook.

PART 3: AUDIT

Appointment of auditor

- 19 For each fiscal year, a duly accredited auditor shall be appointed to audit the land related financial records of the Skawahlook. This auditor will be the auditor appointed for the consolidated audit of the other accounts, audits and reports of the Skawahlook.

Holding office

- 20 The auditor appointed under section 19 holds office until reappointed, or replaced.

Vacancy in office

- 21 Where a vacancy occurs during the term of an auditor, the Council shall, without delay, appoint a new auditor for the remainder of the former auditor's term.

Remuneration

- 22 The auditor's remuneration shall be fixed by the Council.

Duty of auditor

- 23 The auditor shall, within 120 days after the end of the Skawahlook's fiscal year, prepare and submit to the Council, a report on the Skawahlook's financial statement, stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of the Skawahlook in accordance with generally accepted accounting principles applied on a basis consistent with that applied in the previous fiscal year.

Access to records

- 24 In order to prepare the report on the Skawahlook's financial statement, the auditor may at all reasonable times inspect any financial records of the Skawahlook and any person or body who administers money on behalf of the Skawahlook.

Presentation of auditor's report

- 25 The Council shall present the auditor's report at a meeting of members.

PART 4: ANNUAL REPORT

Publish annual report

- 26 The Council, on behalf of the Skawahlook, shall publish an annual report on the land issued within one month of receipt of the community's audit.

Contents

- 27 The annual report will include
- (1) a review of land management activities;
 - (2) a copy and explanation of the audit as it applies to the land; and
 - (3) any other matter as determined by Council or the Land Advisory Committee.

Access to information

- 28 Any member may, during regular business hours at the Skawahlook administrative office, have reasonable access to:
- (1) the register of laws;
 - (2) the auditor's report; and
 - (3) the annual report on the land.

- 29** Any member may, during regular business hours at the Skawahlook administrative office, inspect the financial records of the Skawahlook related to the land, but must first make an appointment to do so.

Schedule E

LAND ADVISORY COMMITTEE

Land Advisory Committee established

- 1** The Land Advisory Committee shall:
 - (1) assist with the development of an administration system in respect of the land;
 - (2) advise Council on matters respecting the land;
 - (3) recommend laws, resolutions, policies and procedures respecting the land to Council;
 - (4) assist in the exchange of information regarding land matters between members and Council;
 - (5) convene meetings of members to receive their input or seek their approval on certain land matters as required in this Land Code;
 - (6) perform such other duties and functions as delegated to it by Council.
- 2** The Land Advisory Committee will perform its work under the direction of Council.

Determination of fees and rent

- 3** The Land Advisory Committee will recommend to Council a process for determining:
 - (1) fees and rent for interests and licenses in the land;
 - (2) fees for services provided by the Skawahlook to members and non-members in relation to the land and compliance with this Land Code; and
 - (3) processes and criteria for managing the Skawahlook's obligations in relation to the land.

Implementation of policies

- 4** Rules, procedures and processes developed in accordance with sections 3(2) and 3(3) will be considered by Council for implementation as laws, resolutions, policies or amendments to this Land Code.

Internal procedures

- 5** The Land Advisory Committee may establish rules and procedures for the conduct of its meetings and general affairs, provided that any such rules and procedures are not inconsistent with any rules and procedures established by Council.

- 6** Subject to Council requirements in respect of financial obligations, the Land Advisory Committee may:
- (1) establish policies for the recovery of expenses incurred by Land Advisory Committee members; and
 - (2) establish programs for the orientation and education of Land Advisory Committee members.

Composition

- 7** The Land Advisory Committee will have five committee members. These committee members will be selected and appointed by Council and may include Skawahlook staff who have responsibility for land management. No more than two of the committee members will be Skawahlook staff members. Four or five of the committee members will be eligible voters. Council may select and appoint one non-member to the committee, provided that member lives on the land and has a long-term interest in the land.
- 8** Council, in its appointments, shall ensure that the Land Advisory Committee is comprised of an odd number of members and that no more than one member of the Land Advisory Committee is a member of Council.
- 9** The Land Advisory Committee may obtain the services of advisors and professionals to assist it in fulfilling its functions.

Eligibility

- 10** Any eligible voter, whether or not resident on the land, and a non-member who lives on the land and has a long-term interest in the land, is eligible to be appointed to the Land Advisory Committee, except for:
- (1) an eligible voter or non-member convicted of an offence that was prosecuted by way of indictment;
 - (2) an eligible voter or non-member convicted of a corrupt practice in connection with an election, including accepting a bribe, dishonesty or wrongful conduct;
 - (3) an eligible voter or non-member who is an undischarged bankrupt;
 - (4) an eligible voter or non-member found by a Court to have breached a fiduciary duty owed to the Skawahlook or defrauded the Skawahlook;
 - (5) an eligible voter or non-member who is unable to regularly attend meetings due to living elsewhere; and
 - (6) an eligible voter or non-member who is unfit by reason of mental incapacity.

Interim Land Advisory Committee

- 11 The interim Land Advisory Committee as it exists on the date of the ratification vote will hold office and carry out the duties of the Land Advisory Committee until the first Land Advisory Committee appointed under section 14 takes office.
- 12 Council must appoint a Land Advisory Committee no more than six (6) months after the effective date of the Land Code to replace the interim Land Advisory Committee.

No limit on terms in office

- 13 Incumbent members of the Land Advisory Committee are eligible for reappointment to the Committee for a further term.

Staggered term of office

- 14 In the first appointments to the Land Advisory Committee made after this Land Code comes into effect, Council will appoint or reappoint:
 - (1) three eligible voters or two eligible voters and one non-member to the Land Advisory Committee to a two-year term; and
 - (2) two eligible voters to the Land Advisory Committee to a four-year term;and thereafter, on the expiry of the Land Advisory Committee members' terms of office, Council shall appoint or reappoint members to the Land Advisory Committee to fill the vacancies arising on the expiry of the members' terms to four-year terms.
- 15 Appointed Land Advisory Committee members shall hold office for a term commencing at midnight on the date of their appointment and terminating at midnight four years following that date.

Vacancy on Land Management Committee

- 16 The office of a member of the Land Advisory Committee becomes vacant if the member, while holding office:
 - (1) is or becomes ineligible to hold office under section 10;
 - (2) ceases to be a member of the Skawahlook, if the member is one of the eligible voters appointed to the Land Advisory Committee;
 - (3) is absent for three consecutive meetings of the Land Advisory Committee for a reason other than illness or incapacity without being authorized to be absent by the Chair of the Land Advisory Committee;
 - (4) dies or becomes mentally incompetent; or
 - (5) resigns in writing.

Vacancy in term

- 17 Where the office of a member of the Land Advisory Committee becomes vacant more than 90 days before the date when that member's term would ordinarily be up, Council will appoint a replacement for the balance of the term in respect of which the vacancy occurred.

Attributes of Committee members

- 18 The members of the Land Advisory Committee will accept their appointment as members, accept the duties and obligations of membership and agree to observe and carry out those duties and obligations according to the terms and conditions of this Land Code.
- 19 Members of the Land Advisory Committee will endeavor to demonstrate the following attributes:
- (1) impartiality, honesty and integrity;
 - (2) responsibility and accountability; and
 - (3) confidentiality.

Chair

- 20 The members of the Land Advisory Committee will select a Chair from among their members.

Alternate Chair

- 21 If the Chair is unavailable or unable to perform the functions of office, the Land Advisory Committee will appoint another member of the Land Advisory Committee to serve as Acting Chair.

Duties of the Chair

- 22 The duties of the Chair are to:
- (1) chair meetings of the Land Advisory Committee;
 - (2) ensure that financial statements relating to all activities of the Land Advisory Committee, including any applicable revenues and expenditures concerning Skawahlook lands, are prepared and tabled with Council;
 - (3) report to Council and the members on the activities of the Land Advisory Committee; and
 - (4) perform such other duties as Council or the Land Advisory Committee may reasonably prescribe.