

SOOWAHLIE FIRST NATION



# Land Code

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January 11, 2016

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*I hereby certify that the within instrument is a true and correct copy of the original document of which it purports to be a true copy.*

**Colleen R. Deck No. 2014-0635  
Commissioner for Taking Affidavits  
for British Columbia  
Expiration: May 31, 2017**

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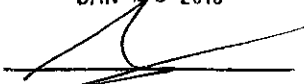
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PART 1 PRINCIPLES

***Soowahlie Vision Statement***

1.1 Soowahlie First Nation will have a strong sense of community, based on positive and healthy relationships between individuals and families.

***Soowahlie Mission Statement***

1.2 Soowahlie First Nation (SFN) will promote and preserve the Cultural, Economic and Community balance; by encouraging membership's communication and participation in achieving a healthy lifestyle and social harmony within the Nation. SFN is also committed to protecting our lands and establishing and promoting sound relationships with local municipalities and governments.

***Soowahlie Authority to Govern***

1.3 By enacting this Land Code, Soowahlie exercises its inherent right to govern that part of S'ólh Téméxw (our lands) which has been designated as Soowahlie reserve land within the meaning of *the Indian Act*, R.S.C. 1985, c 1-5

1.4 The authority of Soowahlie to govern its land and resources flows from:  
(a) The Creator to the Soowahlie people;  
(b) To ensure that the Soowahlie Land and resources are environmentally protected; traditional, cultural, holistic and archeology sites preserved;  
(c) The Soowahlie people to the Council according to the culture, traditions, customs and laws of Soowahlie; and  
(d) Soowahlie's inherent right to self-government and its other aboriginal rights, including aboriginal title.

***Respect for Stó:lō Heritage, Culture, and Tradition***

1.5 Using this Land Code, Soowahlie will continue to carry out its responsibility to protect and manage the land and our resources for future generations in accordance with Stó:lō heritage, culture and traditions, while allowing for the evolution of modern expressions of that heritage, culture and tradition.

***Legal Title held by Canada for Purposes of Land Code***

1.6 Soowahlie acknowledges that, subject to section 2.8, non-derogation of aboriginal rights and title, for the purpose of this Land Code, legal title to Soowahlie reserve land continues to be held for Soowahlie's use and benefit by Her majesty the Queen in right of Canada.

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## PART 2 DEFINITIONS AND INTERPRETATION

### Definitions

2.1 In this Land Code, unless the context does not permit, these words have the following meanings:

**Act** means the First Nations Land Management Act, S.C.1999, c.25;

**Adjudicator** is a Barrister or Solicitor and or a member of the British Columbia Bar who would be independent of any parties to a dispute and to other interests in a dispute;

**Allotment** means an interest in Soowahlie Lands granting a member possession of a part of Soowahlie Lands under part 9 of this Land Code or, prior to the date this Land Code comes into force, pursuant to section 20 of the *Indian Act*;

**Certificate of Possession or CP** means an official document issued or confirmed under this Land Code or formerly issued under section 20 of the *Indian Act* to confirm a member's Allotment;

**Chief** means the elected Chief of Soowahlie;

**Child** includes the natural offspring of an individual, and any Person less than 18 years of age who has been adopted legally or by Stó:lō custom;

**Common-law Marriage** means the union of two individuals who, though not married to each other, have lived together as spouses for a period of not less than seven years;

**Committee** means the Land Management Advisory Committee established in Part 6;

**Community Lands** means any Soowahlie Lands in which no Allotment or CP to a member has been made or affirmed by this Land Code or under the *Indian Act*;

**Community Purpose** means a purpose which is intended to provide a facility, benefit or support for the Members or Persons residing on Soowahlie Lands and may include public works, utility or transportation corridors, or similar vital purposes;

**Council** means the elected or appointed governing body of Soowahlie, comprised of the elected Chief and Councillors;

**Council Resolution or Resolution** means a formal, written motion passed by a quorum of Council at a duly constituted meeting of Council;

**Easement** means a non-exclusive interest in Soowahlie Lands granted under Part 9 of this Land Code or; prior to the date of the Land Code, under the *Indian Act*, giving the grantee

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the right to use the land or another for a right of way or to provide utility or other services to the land of the grantee, and is limited to only such interest as is necessary to give effect to the Easement granted;

**Eligible Voter** means a Member who, as of the date of a Ratification Vote or other vote provided for in this Land Code, has attained the age of eighteen years;

**Framework Agreement** means the Framework Agreement on First Nation Land Management entered into between the Government of Canada and fourteen First Nations on February 12, 1996, as amended;

**Immediate Family** means, in respect of an individual, that individual's parent, grandparent, sister, brother, child, grandchild, or spouse;

**Individual Agreement** means the agreement entered into between Soowahlie and the Government of Canada pursuant to section 6(3) of the *Act* and Section 6.1 of the Framework Agreement;

**Interest** means an interest in Soowahlie lands, including an Allotment, Easement, Lease, Life Estate, Mortgage, Permit right-of-way, statutory right-of-way, and Sublease or other interest in land that can be granted under this Land Code or a Soowahlie law;

**Land Code** means the Soowahlie Land Code;

**Lands Governance Director** means the Soowahlie First Nation employee or contractor responsible for the day-to-day administration of Soowahlie Lands;

**Lands Registry** means the First Nation Lands Registry System established by Canada in accordance with clause 51.1 of the Framework Agreement and maintained by the minister in Ottawa, Ontario or a Soowahlie or other lands registry designated by Council by Resolution to be a Lands Registry;

**Lands Use Plan** means a formal plan addressing land use and other factors related to the use or development of Soowahlie Lands;

**Law** means a law or regulation enacted under this land Code but does not include a Council Resolution that does not comply with the requirements set out in this Land Code;

**Lease** means a written agreement granting a Leasehold;

**Leasehold** means an interest in Soowahlie Lands granted under this Land Code or, prior to the date of this Land Code, under the Indian Act including a Sub-lease, giving a Person the exclusive right of use and possession of lands, upon agreed conditions, for a specified time, calculated by including any renewal or extension period;

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**Licence** means an interest in Soowahlie Lands granted under this Land Code, giving a Person the right to carry out an activity on Soowahlie Lands or to use, develop or extract specified Natural Resources from a specified parcel of Soowahlie Lands but which does not grant exclusive possession of Soowahlie Lands;

**Life Estate** means an interest in an Allotment, CP or home granted to any natural Person, including a non-Member, that grants the individual a right to use and occupy a specified home, structure or area or parcel of land for a specified time period, or until that individual re-marries or enters into a common-law marriage with a Non-Member, which is not transferable and cannot exceed the life of the Person;;

**Majority** means fifty percent plus one (50% +1);

**Member** means a Person who meets the requirements as outlined in Section 11 of the *Indian Act* and is a Soowahlie registered Member;

**Minister** means the Minister of Indigenous Affairs and Northern Development Canada, as the representative of Her Majesty the Queen in Right of Canada

**Mortgage** means a charge on an Interest or License in Soowahlie lands in favor of another as security for a debt;

**Natural Resources** means any minerals, oil, gas, substances, groundwater, water, vegetation or animals found on, under, or in Soowahlie Lands which, when removed, have economic or other value;

**Permit** means an interest in specified area of Soowahlie Lands other than a Leasehold, Easement or Licence, granted under Land Code or, prior to the date of this Land Code, under the *Indian Act*, giving a Person the right to carry out an activity or use a specified area of Soowahlie Lands for a specified purpose. A Permit does not convey any right of exclusive possession in the land and does not restrict the rights of the grantor of the Permit beyond that required giving effect to the Permit granted;

**Person** includes a natural Person, corporation, partnership or party, and the Personal or other legal representatives of a Person to whom the context can apply according to law;

**Ratification Vote** means a vote carried out in relation to this Land Code in a manner consistent with Part 4;

**Register or Registration** means to submit a document, Interest, License or law to the Lands Registry or, if permitted under this Land Code, a Law or Council Resolution, to another Registry which has similar features to the Lands Registry;

**Residential Use** means use of an Allotment by one member, who does not already have an Allotment or a CP, for the purpose of situating their home, and does not include buildings

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intended for renting out, or industrial, commercial or other uses except in accordance with Soowahlie laws including laws for home-based business;

***Soowahlie First Nation*** and ***Soowahlie*** mean the collective of those individuals who recognize each other as members of a community traditionally connected to Soowahlie Lands, and which is a First Nation within the meaning of the Framework Agreement;

***Soowahlie First Nation Lands or Soowahlie Lands*** means: any lands that are currently Soowahlie First Nation Reserve lands as set out in the Individual Agreement or added in compliance with this Land Code. This includes:

- (a) Soowahlie Indian Reserve #14;
- (b) In the future, portions of Soowahlie Indian Reserve #14 that are excluded from the application of this Land Code and in the Individual Agreement, once the issues causing these exclusions are resolved and written confirmation is provided by the Minister;
- (c) Lands set apart by Canada in the future as lands reserved for the use and benefit of SFN, within the meaning of subsection 91(24) of the *Constitution Act, 1867* and section 2(1) of the *Indian Act*; and
- (d) Reserve lands jointly for the use and benefit of Soowahlie and one or more other First Nations, if the First Nations agree upon a joint management scheme for those lands under a Land Code; and

including all riparian rights relating to these Lands and the water, beds underlying the water, riparian rights, minerals and subsurface resources and all other renewable and non-renewable natural resources in and of the lands described directly above to the extent that those resources are under the jurisdiction of Canada or Soowahlie; and all interests and licences granted or confirmed to Soowahlie by Her Majesty in right of Canada listed in the Individual Agreement;

***Soowahlie Lands and Governance Office*** means the department established by Council to manage and govern Soowahlie Lands;

***Spouse*** means an individual who is married to another, whether by traditional, religious or civil ceremony, and includes a Spouse by Common-law marriage;

***Sub-Lease*** means a portion of that Interest held under Lease; and

***Verifier*** means a verifier appointed in accordance with clause 8.1 of the Framework Agreement.

***Interpretation***

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2.2 In the Soowahlie 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 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;
- (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;
- (g) Where the time limited for the doing of an act expires or falls on a Saturday, a Sunday or a federal, provincial, or an Indigenous holiday, the act may be done on the next business day;
- (h) Where the time limited for the doing of an act in the Soowahlie 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; and
- (i) Where there is reference to a number of days, these days on which the events happen are excluded.

***Paramountcy***

2.3 If there is an inconsistency or conflict between this Land Code and any other Soowahlie Law or Council Resolution relating to Soowahlie Lands or administration of Soowahlie Lands, this Land Code shall prevail to the extent of the inconsistency or conflict.

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

***Culture and Traditions***

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- 2.5 The structures, bodies and procedures established by or under this Land Code shall be interpreted in accordance with the culture, traditions of Soowahlie otherwise provided.

***Fair Interpretation***

- 2.6 This Soowahlie Land Code shall be interpreted in a fair, large and liberal manner.

***Purpose***

- 2.7 The purpose of this Land Code is to set out the principles, procedures, legal and administrative structures that apply to Soowahlie Lands and by which Soowahlie will exercise authority over those Lands.

***Non-Abrogation***

- 2.8 This Land Code shall not abrogate or derogate from any aboriginal right, treaty right or other right or freedom that pertains now or in the future to Soowahlie or its Members.
- 2.9 This Land Code is not intended to affect the eligibility of Soowahlie or any Member to receive services or participate in such public or aboriginal programs as may be established from time to time, to the extent that Soowahlie has not assumed responsibility for such services and programs.
- 2.10 This Land Code is not intended to abrogate or derogate from the fiduciary relationships between her Majesty the Queen on Right of Canada, Soowahlie and its members.

**PART 3 SOOWAHLIE LAW MAKING AND LAWS**

***Law-making Powers***

- 3.1 Council may, in accordance with this Land Code, make Laws respecting:
- (a) Development, conservation, protection, management, regulation, occupation, servicing, use and possession of and planning for, Soowahlie Lands;
  - (b) Interests and Licenses;
  - (c) Establishment, collection, administration, borrowing, saving and expenditure of any fees, charges, revenues, or other monies in relation to Soowahlie Lands;
  - (d) Any matter necessary to give effect to this Land Code; and
  - (e) Any matter necessary or ancillary to a Law.
- 3.2 For greater certainty, and without limiting the generality of section 3.1, Council may make Laws respecting the following but only after meeting with the Community to receive input prior to enacting a Law in respect of:

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- (a) A Law creating, or making a significant amendment to, a Land Use Plan;
- (b) Creation, regulation and prohibition of Interests or Licenses;
- (c) Environmental assessment and environmental protection;
- (d) Expropriation;
- (e) Setting aside and regulation of heritage lands and sacred sites;
- (f) Spousal property under section 9.54; or
- (g) Any other matter or class of matters that Council by Council Resolution declares to be subject to.

3.3 For greater certainty, and without limiting the generality of section 3.1, Council may make Laws respecting the following:

- (a) The purchase, acquisition or sale of lands in accordance with the *Act* and this Land Code;
- (b) Regulation, control, authorization and prohibition of residency, access, occupation and development of Soowahlie Lands;
- (c) Zoning and land use planning;
- (d) Fees or charges to be paid to Soowahlie for the granting or transfer of Interests or Licenses in Community Lands;
- (e) Archaeological assessment and protection of archaeological and cultural resources;
- (f) Regulation of development, building and construction, including the application of building codes, engineering standards and other standards;
- (g) Expropriation of Interests and Licenses;
- (h) Registration of Interests and Licenses;
- (i) Forms, procedures, application fees and related matters;
- (j) Mortgages and secured interests relating to Interests and Licenses;
- (k) Protection, regulation and granting of Interest or Licenses in Natural Resources;
- (l) Fees, stumpage, or royalties to be paid to Soowahlie for the removal or extraction of Natural resources from Soowahlie Lands, including for removal or extraction of minerals, gravels, timber and water from Community Lands and from Allotments or CP Lands;
- (m) Fees to be paid to Soowahlie for Permit or Licence applications or administrative procedures;
- (n) Fees, regulations and processes for the certification or registration of Interests or Licenses;
- (o) Creation or registration of priority Interests or priority agreements in relation to Interests or Licenses;
- (p) Provision of, installation of, and Interests or Licenses for, utilities and local services and imposition of user charges including development cost charges or their equivalent;
- (q) Authorization and regulation of developments and subdivisions including requirements for contributions to community benefits, park dedications or grants in lieu or park dedications;
- (r) The conduct of surveys of lands, Interests or Licenses;
- (s) Setting aside, designation, regulation or management or parks, greenspace, trails, parklands and recreational lands;

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- (t) Rules and procedures for the receipt, management, expenditure, investment, and borrowing of monies relating to Soowahlie Lands, Interests or Licenses, and the establishment of administrative structure to manage such monies;
- (u) Creation of management and administrative bodies or agencies;
- (v) Removal and punishment of Persons trespassing upon Soowahlie Lands or residing on or frequenting Soowahlie Lands for prohibited purposes;
- (w) Public nuisance and private nuisance;
- (x) Regulation of sanitary services in private premises and public places;
- (y) Construction and maintenance of boundaries, screening and internal fences;
- (z) Construction and maintenance and management of roads, watercourses, water diversions, storm drains, bridges, dyking, ditches, infrastructure and other local and public works;
- (aa) Regulation of traffic and transportation;
- (bb) Enforcement of Laws;
- (cc) Dispute resolution and adjudication of disputes;
- (dd) Hunting, fishing, and management and protection of fish, wildlife and their habitat on Soowahlie Lands; and
- (ee) Use and storage of fireworks, firearms, weapons and hazardous materials or substances.

### ***Introduction of Laws***

3.4 A proposed Law may be introduced at a meeting of Council by:

- (a) A member of Council;
- (b) A representative on behalf of the Committee, or other body composed of Members as may be authorized by Council; or
- (c) The Lands Governance Director.

### ***Tabling and posting of proposed Laws***

3.5 At least 30 days prior to a Council vote on a Law, the proposed Law shall be:

- (a) Tabled at a meeting of Council;
- (b) Deposited with the Chair of the Committee; and
- (c) Posted in the Soowahlie Administration Offices and other public places on Soowahlie Lands; and
- (d) Posted in other public places that Council may direct including Soowahlie's web-site, Facebook or other social media, mailing or e-mailing notices to the off-reserve members or locations where off-reserve members may gather.

3.6 For proposed Laws relating to subsections 3.2 above, in addition to the requirements set out in 3.4-3.5 above, Council or the Lands Governance Director must also bring the proposed Law to a Special Membership Meeting at least 30 days before passing the Law.

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3.7 Council may pass Laws regarding Land Use Planning by following sections 3.1-3.6 above. However, for a Land Use Plan or any significant amendment to a Land Use Plan, in addition to the requirements set out above, a Ratification Vote is required at a Special Membership Meeting in accordance with section 4.9 below.

***Urgent Matters***

3.8 Council may enact a Law without the preliminary steps required in sections 3.4 to 3.7 above if Council, acting reasonably, believes that the Law is required urgently to protect Soowahlie Lands or Members.

3.9 A Law enacted under section 3.8 will be deemed to have been repealed and have no force and effect 90 days after its enactment, but may be re-enacted in whole or as amended in accordance with sections 3.4 to 3.7.

***Enactment of Laws***

3.10 A Law is enacted when approved by Council Resolution after Council has complied with sections 3.1-3.7 above or, for urgent matters, with section 3.8 above.

***Administration***

3.11 Council shall perform all the duties and functions, and exercise all the powers of Soowahlie that are not specifically assigned to an individual body established under this Land Code.

***Delegation***

3.12 Notwithstanding section 3.11, Council may, by enacting a Law, delegate administrative authority to an individual or a body established or authorized under this Land Code.

***Certification of Laws***

3.13 A quorum of Council shall sign the original copy of a Law or Council Resolution.

***Amendments***

3.14 Any Soowahlie Law may be repealed or amended by following the procedure set out in the provisions under which the Law was enacted.

***Law Coming into Force***

3.15 A Law comes into force on:

(a) The date it is enacted; or

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(b) Such other reasonable date as may be set by Council Resolution or Law.

***Publication***

3.16 All Laws shall be published in the minutes of Council.

***Posting Laws***

3.17 As soon as practicable after a Law has been enacted, Council shall post a copy of the Law in the Soowahlie Administration Office.

***Register of Laws***

3.18 Council shall require to be Registered all laws and Council Resolutions passed in relation to this Land Code, including those that have been repealed or are otherwise no longer in force, and may also direct the Lands Governance Director to keep copies in an unofficial duplicate registry at the Soowahlie Administration Office.

3.19 Any Person may, during regular business hours at the Soowahlie Administration Office, have reasonable access to the Register of Laws or assistance to access the Registry.

***Copies for Any Person***

3.20 Any Person may obtain a copy of Law or Council Resolution passed under this Land Code upon payment of such reasonable fee, if any, as may be set by Council or the Lands Governance Director.

**PART 4 COMMUNITY AND COMMITTEE CONSULTATION**

***Right of Eligible Voter***

4.1 An Eligible Voter is entitled to:

- (a) Attend Special Membership Meetings called under this Land Code; and
- (b) If there is a vote, vote at a Special Membership Meeting called under this Land Code.

***Conduct of Meetings***

4.2 Council shall, in consultation with the Committee, develop Laws, policies or procedures for the conduct of meetings under this Land Code.

***Process to Implement Laws***

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- 4.3 Council shall, in consultation with the Committee and within reasonable time after this Land Code takes effect, establish a process to develop and implement the Laws referred to in Section 3.2 (a), (c) and (f).
- 4.4 Nothing in this Land Code precludes Council or the Committee from consulting with other advisors or representatives of other jurisdictions, including Canada, a province, another Indian Band or First Nation, a municipal Council or a Regional District.

***Soowahlie Lands Advisory and Community Meetings***

- 4.5 Where required by this Land Code, Council shall consult with Members at a Soowahlie Community Meeting.

***Notice***

- 4.6 Council shall give written notice or direct the Lands Governance Director to give notice of a Soowahlie Lands Advisory Community Meeting that:
- (a) Specifies the date, time and place of the meeting;
  - (b) Contains a brief description of matters to be discussed at the meeting; and
  - (c) Includes the text to any Law or other document to be voted on, if any, and such notice shall be;
  - (d) Posted in public places on Soowahlie Lands at least 30 days before the meeting; and
  - (e) Mailed or delivered to Members at least 30 days before the meeting; and
  - (f) Given by such additional methods as Council may consider appropriate.
- 4.7 Nothing precludes Council from holding a Special Membership Meeting in conjunction with any other meeting of Soowahlie Members, provided the meeting meets the requirements under this Land Code.

***Approval by Ratification Vote***

- 4.8 Prior to passing a Law or making a final decision on any of the following, approval by a Ratification Vote at a Special Membership Meeting or a Special Membership Meeting in combination with a mail-in vote must be obtained:
- (a) A disposal or grant of an Interest or License in Community Lands having a term of more than 15 years, excluding utility permits;
  - (b) Setting aside and regulation of heritage lands and sacred sites;
  - (c) A voluntary exchange of Soowahlie Lands under section 7.11;
  - (d) Approval of a Land Use Plan or a significant amendment to a Land Use Plan;
  - (e) An Expropriation Law; and
  - (f) Enactment of a Law or class of Laws that Council, by Council Resolution, declares to be subject to this section.

- 4.9 Despite subsection 4.8 (a) no Ratification Vote is required for:

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- (a) the regular granting of or transfer of Interests or Licenses by CP-Holders in CP lands or Allotments in accordance with this Land Code;
- (b) granting of CPs or Allotments by Council to Members in accordance with this Land Code and any applicable laws or policies; and
- (c) general granting of Interests and Licenses which are not of a type or term which specifically requires a Ratification Vote under this Land Code.

***Ratification Process***

- 4.10 A Ratification Vote required under this Land Code shall be conducted, with any modifications necessary in the circumstances, in substantially the same manner as that provided in the process used to ratify this Land Code.
- 4.11 Council or anyone Council appoints shall post a Notice of Vote at least 30 days prior to the Official Voting Day in public places where it can be read by the Members.

***Minimum Requirements for Approval***

- 4.12 A matter is approved by a Ratification Vote where a Majority of those Eligible Voters who cast a vote, in accordance with voting procedures approved by Council, vote by secret ballot in person or via a mail-in or electronic vote in favor of the manner.

***No Verifier***

- 4.13 A verifier is not required in a Ratification Vote under this Part.

**PART 5 FINANCIAL ADMINISTRATION RELATING TO LAND**

Financial Management

***Application***

- 5.1 This part applies only to financial matters in relation to Soowahlie Lands that are administered under this Land Code.

***Establishment of Bank Accounts***

- 5.2 Council will maintain one or more dedicated financial accounts in an accredited financial institution and will deposit in those accounts:
  - (a) Transfer payments received from Canada for the manager and administration of Soowahlie Lands;
  - (b) Monies received by Soowahlie from the grant or disposition in Interests or Licenses in Soowahlie Lands;

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- (c) Fees, fines, charges and levies collected under a Law or Council Resolution in respect of Soowahlie Lands;
- (d) All capital and revenue monies received from Canada from the grant or disposition of Interests or Licenses in Soowahlie lands; and
- (e) Any other revenues received by Soowahlie in relation to Soowahlie Lands excluding property tax revenues.

***Financial Policy***

5.3 Soowahlie may, in accordance with this Land Code, adopt a financial policy to further manage money related to Soowahlie Lands.

***Signing Officers***

5.4 A cheque or other bill of exchange or transfer drawn on financial account maintained under section 5.2 must be signed by at least two members of Council in accordance with Soowahlie financial policy.

5.5 Despite subsection 5.5, Council may delegate signing authority to the Lands Governance Director to act as one of two signers provided that this delegation:

- (a) Is set out in a Council Resolution;
- (b) Is for a specified and limited period of time and expires if the Lands Governance Director is no longer an employee of Soowahlie; and
- (c) Is for specified types of payments and within a dollar limit set by Council in the Council Resolution.

5.6 A signing authority in section 5.4 or 5.5 shall not sign a cheque for which they are payee.

5.7 Any signing authority who violates section 5.6 is subject to having the cheque signed in violation voided and is also personally liable for any costs incurred by Soowahlie.

5.8 Every signing officer will complete a reasonable security screening process as required by Council or in accordance with Soowahlie financial policy.

**Budgets**

***Budget***

5.9 Council will, by Council Resolution, prior to the beginning of each fiscal year, adopt a land management budget for the administration of lands under this Land Code for that fiscal year and may, if Council deems it necessary in the course of the fiscal year, adopt one or more supplementary budgets for that fiscal year.

5.10 Prior to adopting a budget or supplementary budget referred to in section 5.9, Council will consult with the Soowahlie Lands Governance Committee.

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***Procedure***

5.11 After adopting a land management budget or supplementary budget, Council will as soon as practicable make a copy of the budget or supplementary budget available at the Soowahlie Administration Office for inspection by Members during regular business hours.

***If No Budget***

5.12 If Council fails to adopt a land management budget for a fiscal year prior to the beginning of that fiscal year:

- (a) Council will adopt a land management budget as soon as possible; and
- (b) The budget and any supplementary budget of the previous fiscal year will apply until another budget is adopted.

***Spending Must Follow Budget***

5.13 Council shall not spend monies related to the administration of Soowahlie Lands under this Land Code or commit, by contract or otherwise, to spend monies related to the administration of Soowahlie Lands under this Land Code unless the spending is authorized under a duly approved budget.

***Determination of Fees and Revenues***

5.14 Council will establish a process for determining:

- (a) Fees, rents, royalties or other charges payable for the granting and transfer of Interests or Licenses in Soowahlie Community Lands;
- (b) Fees or charges payable for the registration and transfer of Interests or Licenses relating to Soowahlie Lands held under an Allotment or CP; and
- (c) Fees for processing applications and services provided in relation to Soowahlie Lands and compliance with this Code.

***Financial Records***

5.15 Soowahlie will keep financial records relating to Soowahlie Lands in accordance with generally accepted accounting principles.

***Preparation of Financial Statements***

5.16 After the end of each quarter of each fiscal year, the Soowahlie Finance Department will prepare a financial statement in comparative form containing:

- (a) A balance sheet;

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- (b) A statement of revenues and expenditures and comparison of these with the amounts stated in the Land Management Budget and any duly approved supplementary budget; and
- (c) Any other information necessary for a full and fair presentation of the financial position of Soowahlie in relation to the administration of Soowahlie Lands under this Land Code.

***Consolidated Accounts***

5.18 The accounting, auditing and reporting requirements of this Land Code may be consolidated with other Soowahlie accounts, audits and reports, provided that the statement and analysis relating to Soowahlie Lands is clearly distinguishable.

Audit

***Appointment of Auditor***

5.19 For each fiscal year Council will appoint a duly accredited auditor to audit the financial records under this Part.

5.20 An auditor appointed for other Soowahlie audits may be appointed under section 5.19.

***Vacancy in Office***

5.21 If vacancy occurs during the term of an auditor, Council will forthwith appoint a new auditor for the remainder of the former auditor's term.

***Remuneration***

5.22 All appointments of auditors in relation to this Land Code will contain a statement approving the remuneration to be paid to the auditor.

***Duty of Auditor***

5.23 The auditor will within 90 days after the end of Soowahlie's fiscal year prepare and submit to Council an audit report of the Soowahlie financial statement stating whether, in the opinion of the auditor, the financial statement presents fairly and accurately the financial position of Soowahlie in accordance with generally accepted accounting principles applied in a basis consistent with that applied in the previous fiscal year.

***Access to Records***

**VERIFIED**

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5.24 The auditor may at all reasonable times inspect any Soowahlie financial records and the financial records of any Person or body who is authorized to administer money relating to Soowahlie Lands.

Annual Report

***Annual Report to be Published***

5.25 The Lands Governance Director will prepare and table with Council an annual report on Soowahlie Land management within 120 days of the end of each Fiscal Year.

5.26 The annual report will include:

- (a) An annual review of Soowahlie Land management activities under this Land Code;
- (b) A copy and explanation of the audit report as it applies to Soowahlie Lands; and
- (c) Such other matters as may be directed by Council or reasonably requested by the Committee

Access to Information

5.27 Any Member may, during regular business hours at Soowahlie Administration Office, have reasonable access to view:

- (a) Soowahlie Lands audit reports; and
- (b) Soowahlie Lands annual reports.

5.28 Council may decide to include all or a portion of any Soowahlie Lands audit reports or annual reports in a newsletter or meeting presentation to Soowahlie members.

Offences

5.29 Any Person who has control of Soowahlie financial records and who:

- (a) Impedes or obstructs any Member or Auditor from exercising a right to inspect those records; or
  - (b) Fails to give all reasonable assistance to any member or Auditor exercising a right to inspect those financial records,
- is guilty of an offence under this Land Code.

PART 6 LANDS ADMINISTRATION

Land Management Advisory Committee

***Committee Established***

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6.1 Council shall:

- (a) within a month of the date this Land Code becomes operational, establish a Land Advisory Committee; and
- (b) subject to funding and availability of qualified candidates, ensure that there remains a Land Advisory Committee in place.

6.2 Subject to funding and available qualified candidates, Council shall hire and retain in place a Lands Governance Director.

6.3 The purpose of the Soowahlie Land Advisory Committee is to:

- (a) Advise Council and the Land Governance Director on the Soowahlie Land administration system;
- (b) Advise Council and Soowahlie staff on matters respecting Soowahlie Lands;
- (c) Recommend to Council Laws, Council Resolutions, policies and procedures respecting Soowahlie Lands;
- (d) Subject to Part 10 (Dispute Resolution), hold or help arrange meetings of Members and other meetings to discuss issues relating to Soowahlie Lands and make recommendations to Council on the resolution of such issues;
- (e) Assist in the exchange of information between Members and Council regarding Soowahlie land matters;
- (f) Oversee other consultations under this Land Code; and
- (g) Perform such other duties and functions as Council may direct.

***Development of Land Related Rules and Procedures***

6.4 With a reasonable time after this Land Code comes into effect, Council will, in consultation with Members, Lands Governance Director, and the Committee, establish rules and procedures or laws, which may include laws or policies, to address:

- (a) Environmental protection and assessment;
- (b) Subject to Part 10 (Dispute Resolution) Resolution of disputes in relation to Soowahlie Lands;
- (c) Subject to 3.7 and 4.8 (Community approval of Land Use Plans), land use planning and zoning; and
- (d) Section 9.54 respecting spousal property and the policy upon which that section is based.

***Implementation of Policies***

6.5 Recommendations of the Committee in relation to rules and procedures developed in accordance with section 6.4 will be given full and fair consideration by Council for implementation as Laws, Resolutions, policies, or amendments to this Land Code.

***Internal Procedures***

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- 6.6 The 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.
- 6.7 Subject to approved budgets and to Council requirements in respect of financial obligations, the Committee may:
- (a) Recommend policies for the remuneration and recovery of expenses incurred by Committee members; and
  - (b) Recommend programs for the orientation and education of Council, staff and Committee members.
- 6.8 The Committee will take reasonable measures to consult with Elders with respect to matters in general under this Land Code, and particularly with respect to Heritage lands and sacred lands.

### **Lands Advisory Committee Membership**

#### ***Composition of the Committee***

- 6.9 The Lands Advisory Committee will be made up of Eligible Voters appointed by Soowahlie Council in a matter so as to provide for broad representation for the First Nation Community.

#### ***Eligibility***

- 6.10 Any Eligible Voter whether or not resident on Soowahlie Lands, is eligible to be appointed to the Committee except for:
- (a) A Person convicted of an offense prosecuted by way of indictment or felony conviction within five years prior to the date of the appointment; and
  - (b) A Person convicted of a corrupt practice in connection with an election, including accepting a bribe, dishonesty or other wrongful conduct.
- 6.11 The Lands Governance Director and at least one council member will be an ex officio of the Committee.
- 6.12 Council will appoint four Committee Members and try to ensure a representation from different families, including youth and elders.
- 6.13 The appointment process under section 6.12 will include:
- (a) A process for providing notice to members that appointments will be made to the Committee and offering Members an opportunity to apply for such appointments; and
  - (b) Standards and criteria for appointment to the Committee.

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***Terms and Vacancy***

6.14 A member of the Committee will serve for two years or until that member:

- (a) Resigns in writing;
- (b) Becomes ineligible under section 6.10;
- (c) The member ceases to be a Member; or
- (d) The member is removed by Council Resolution, including if this removal is recommended by other members of the Committee.

***Filling Vacancies***

6.15 Where a seat becomes vacant on the Committee, Council will fill the seat in accordance with Part 6 as soon as possible and no later than three months after it becomes vacant.

**Chair of the Committee**

***Chair***

6.16 The Committee will select a Committee member in good standing to be the Chair.

***Co-Chair***

6.17 The Committee members will select a Co-Chair to perform the functions of the Chair if the Chair is unavailable or unable to perform them.

***Interim Chair***

6.18 If both the Chair and Co-Chair are unavailable or unable to perform the functions of the Chair; the Committee will appoint another member of the Committee to serve as Interim Chair.

***Duties of the Chair***

6.19 The duties of the Chair are to:

- (a) Chair meetings of the Committee;
- (b) In coordination with staff, ensure that there is an agenda prepared and circulated to Committee members in advance of each meeting and that the agenda is followed, as amended, at each meeting;
- (c) In coordination with staff, ensure that financial statements relating to the activities of the Committee, including any applicable revenues and expenditures in relation to Soowahlie Lands, are prepared and tabled with Council;

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- (d) Report to Council and members on the activities of the committee and ensure that written recommendations are provided to Council in a timely manner on key issues in accordance with section 6.3;
- (e) Monitor the presentation of the annual report under section 5.26; and
- (f) Perform such other duties as Council or the Committee may reasonable prescribe.

## Registration of Interests and Licenses

### ***Lands Registry***

- 6.20 An Interest or License in Soowahlie Lands created or granted after this Land Code comes into effect is void and unenforceable unless it is registered as required under this Land Code or as directed by Council Resolution in the Lands Registry.
- 6.21 Persons or entities involved in registering Interest or Licenses are responsible for ensuring the validity and accuracy of their documents. Neither Soowahlie, nor the Lands Governance Director or Soowahlie Lands Office shall be responsible or liable for ensuring that a document which affects or purports to affect Soowahlie Lands:
- (a) Is validly made;
  - (b) Complies with Land Code;
  - (c) Should be Registered or recorded; or
  - (d) Will be accepted for Registration or recording.

### ***Council Consent Must Be Registered***

- 6.22 No document in relation to this Land Code that requires the consent of Council by Soowahlie Council Resolution can be validly Registered unless the Council Resolution approving it, or a certified copy of the Council Resolution, is attached to the document.

### ***Duty to Deposit***

- 6.23 Every Person who receives a grant of an Interest or License in Soowahlie Lands must Register an original copy of the document granting that Interest or License.
- 6.24 Council will direct the Lands Governance Director to ensure that a copy of the following documents is submitted for Registration, provided the Lands Governance Director receives a copy and any required fees or authorizations:
- (a) A grant of an Interest or License in Soowahlie lands;
  - (b) A transfer or assignment of an Interest or License in Soowahlie Lands;
  - (c) A Land Use Plan or subdivision plan; and
  - (d) This Land Code and any amendments to this Land Code.

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***Unofficial Duplicate Soowahlie Lands Registry***

- 6.25 The Council may direct the Lands Governance Director to maintain an unofficial duplicate Soowahlie Land Register in the same form and with same content as the First Nations Land Registry but any such unofficial duplicate registry has no legal status or authority.

**PART 7 PROTECTION OF LAND**

**Expropriation by Soowahlie**

***Rights and Interest or Licenses that May Be Expropriated***

- 7.1 An Interest or License in Soowahlie Lands or in any building or other structure on Soowahlie Lands may be expropriated by Soowahlie in accordance with the Framework Agreement and Law enacted under this Land Code.

***Community Purpose***

- 7.2 An expropriation may be made only for a necessary Community Purpose.

***Process of Limits on Expropriation***

- 7.3 Council may only expropriate an Interest or License in Soowahlie Lands:
- (a) For a Community Purpose;
  - (b) After Council has notified all holders of legal Interest or Licenses in the land or Interest or License of Soowahlie's needs for the land or Interest or Licenses and of the proposed use;
  - (c) After Council has made good faith efforts to try and acquire the Interest or License through negotiations;
  - (d) If no other similar and suitable land or Interest or License is reasonably available;
  - (e) After a Special Membership Meeting to identify whether the proposed use is sufficiently compelling to justify expropriation;
  - (f) In the smallest amount of land and for the shortest period of time necessary to reasonably meet the need for which the land or interest is required by Soowahlie;
  - (g) After Soowahlie has paid fair market value or provided fair and reasonable replacement compensation for the expropriation; and
  - (h) After all of the other relevant requirements set out in the Land Code and Soowahlie Laws have been followed.

***Expropriation Law***

**VERIFIED**

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7.4 Prior to undertaking any expropriation, Council will enact a Law, which is consistent section 17 of the Framework Agreement, in respect of rights and procedures for expropriation including provisions in respect of:

- (a) Taking possession of an expropriated Interest or License;
- (b) Notice of expropriation;
- (c) Service of a notice of expropriation;
- (d) Entitlement to compensation;
- (e) Determination of the amount of compensation; and
- (f) The method of payment of compensation.

***Rights That Cannot Be Expropriated***

7.5 Council cannot expropriate:

- (a) An interest of Her Majesty the Queen in right of Canada, or
- (b) An Interest previously expropriated under section 35 of the *Indian Act*.

***Calculating Compensation***

7.6 The total value of compensation payable for an expropriation under this Part will be based on the following factors and in accordance with the heads of compensation set out in the federal *Expropriation Act*:

- (a) The fair market value of the Interest or License being expropriated;
- (b) The damage attributable to any disturbance; and
- (c) Damages for reduction in the value of any remaining Interest or License.

***Fair Market Value***

7.7 The Fair Market Value of an expropriated Interest or License is equivalent to the amount that would have been paid for the Interest or License if it had been sold on Soowahlie Lands, with all of the rights, limits and restrictions that apply to Interest or Licenses and transactions on Soowahlie Lands, by a willing seller to a willing buyer.

***Neutral Evaluation to Resolve Disputes***

7.8 Subject to section 7.10, the resolution of a dispute concerning an expropriation involving Canada will be determined by neutral evaluation as provided in Part IX of the Framework Agreement.

7.9 The 60-day period referred to in subsection 32.6 of the Framework Agreement will be applied as appropriate in the circumstances, by the neutral evaluator.

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7.10 The resolution of a dispute concerning an expropriation by Soowahlie will be determined by the Dispute Resolution provisions set out in Part 10 of this Land Code or by any more detailed Dispute Resolution provisions set out in a Soowahlie expropriation law.

***Arbitration to Resolve Disputes***

7.11 Subject to any more detailed provisions set out in a Soowahlie Expropriation Law, resolution of the following disputes in relation to an expropriation by Soowahlie will be determined by arbitration in the same manner as provided in Part IX of the Framework Agreement:

- (a) A dispute about the right to compensation for the holder of an expropriated Interest or License; and
- (b) A dispute about the amount of compensation owed for an expropriation.

Voluntary Land Exchange

***Conditions for a Land Exchange***

7.12 Soowahlie may, by agreement with another party, exchange Soowahlie Land for land from that other party in accordance with this Land Code and the Framework Agreement.

***No Effects Unless Ratified***

7.13 A land exchange is of no force and effect unless it receives approval by a Ratification Vote.

***Conditions on Lands to be Received***

7.14 A proposed Land Exchange cannot proceed to Ratification Vote unless the land to be received by Soowahlie is:

- (a) Of equal or greater area than the Soowahlie Land to be exchanged;
- (b) Of a value comparable to the appraised value of the Soowahlie Land to be exchanged; and
- (c) Eligible to become a reserve under the *Indian Act* and to become Soowahlie Land in accordance with this Land Code.

***Negotiators must be Designated by Resolution***

7.15 A Person can only negotiate a Land Exchange Agreement on behalf of Soowahlie if they are designated by Council Resolution for that specific negotiation.

***Additional Compensation***

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7.16 Soowahlie may accept additional compensation, including money or other land, in addition to the exchange land referred to in section 7.14.

7.17 Other land accepted under section 7.16 may be held by Soowahlie in fee simple or otherwise.

***Federal Consent***

7.18 Before Soowahlie completes a land exchange, it must receive a written statement from Canada stating that Her Majesty in right of Canada:

- (a) Consents to set apart as a Reserve subject to this Land Code the land to be received in the Land Exchange, as of the date of the Land Exchange or such later date as Council may specify by Council Resolution; and
- (b) Consents to the manner and form of the land exchange as set out in the Land Exchange Agreement.

***Information to Members***

7.19 At such time as negotiations of a land exchange agreement are concluded, and at least 30 days before the Ratification Vote set out in section 7.13, Council will provide the following information to Members:

- (a) a description of the Soowahlie Land to be exchanged;
- (b) a description of the land to be received by Soowahlie;
- (c) a description of any additional compensation to be received by Soowahlie;
- (d) a report from a certified land appraiser stating that the conditions set out in sections 7.14(a) and (b) have been met;
- (e) a copy of the land exchange agreement; and
- (f) a copy of the statement referred to in section 7.18.

***Process for Land Exchange***

7.20 A land exchange agreement will provide that:

- (a) The other party to the exchange will transfer to Canada the title to the land that is to be set apart as reserve;
- (b) Council will pass a Council Resolution authorizing Canada to transfer title to the Soowahlie Land being exchanged, in accordance with the Land Exchange Agreement; and
- (c) A copy of the documents transferring title to the land will be registered in the Lands Registry.

**VERIFIED**

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7.21 Despite the voluntary transfer and expropriation provisions in this Part, nothing in this Land Code prevents a Member with an Allotment or CP from transferring all or a portion of their Interests in land to Soowahlie for fair market value or other agreed-upon compensation. Such transfers do not require community consultation or Ratification Vote.

## PART 8 CONFLICT OF INTEREST

### Conflict of Interest

#### *Application of Rules*

8.1 Section 8.2 applies to:

- (a) A member of Council who is dealing with a matter before Council that is related to Soowahlie Lands;
- (b) An employee of Soowahlie dealing with a matter that is related to Soowahlie Lands; and
- (c) A member of a Soowahlie board, committee or other body dealing with a matter that is related to Soowahlie Lands.

#### *Duty to Report and Abstain*

8.2 If there is any financial or proprietary interest in a matter being dealt with that might involve an individual referred to in section 8.1, the individual's Immediate Family or a business in which the individual holds an interest, that individual will:

- (a) Disclose in writing the interest to Council, their employment supervisor, the board, the committee, or the other body;
- (b) Take no part in deliberations or discussions on the matter; and
- (c) Take no part in any votes, decisions or recommendations on the matter.

#### *Common Interests Not a Conflict*

8.3 Section 8.2 does not apply to an interest that is held by a Member in common with every other member. For example, an individual is not in conflict if a proposed decision will benefit that Member in the same way it will benefit all Members.

#### *Council May Refer Matter to Meeting of Members*

8.4 If Council is unable to vote on a proposed Law or Council resolution due to one or more conflicts of interest, Council may refer the matter to a Special Membership Meeting to be decided by a Ratification Vote.

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***Committee May Refer Matter to Council***

8.5 If a board, committee or other body is unable to make a decision or recommendation due to one or more conflicts of interest, the board, committee or other body will refer the matter to Council for a final decision.

***Penalty***

8.6 In addition to any other penalty that may be prescribed by Council or by Law for breach of this Part, an individual is liable to Soowahlie for any benefit to that individual, an Immediate Family member or a business in which that individual holds an interest resulting from a violation of this Part.

**PART 9 INTERESTS AND LICENSES IN LAND**

Limits on Interests and Licenses

***Dispositions must be in Writing***

9.1 An Interest or License in Soowahlie Lands may only be created, granted, disposed of, assigned, or transferred by a document issued and registered in accordance with this Land Code.

***Standards***

9.2 Council may, after full and fair consideration of any recommendation made by the Committee, establish mandatory standards, criteria and forms for Interests or Licenses in Soowahlie Lands.

***Improper Transactions Void***

9.3 A document by which Soowahlie, a Member or any other Person purports to create, grant, dispose of, assign, or transfer an Interest or License in Soowahlie Lands after the date the Land Code comes into effect is void if it contravenes this Land Code or a Law passed under the Land Code.

***Non-Members***

9.4 Subject to this Land Code, a Person who is not a Member may hold an Interest or License in Soowahlie Lands but a non-Member may never hold an Allotment or a CP.

***Ceasing to be a Member***

**VERIFIED**

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- 9.5 A Person who ceases to be a Member shall within six months of ceasing to be a member transfer any Allotment or CP they hold to Soowahlie or another Member.
- 9.6 Where a Member does not transfer their Allotment or CP in accordance with section 9.5, the Allotment and any CP issued shall, six months and one day after the Person ceases to be a Member, be cancelled and the Soowahlie Lands described in the Allotment shall automatically become Community Lands.
- 9.7 Where an Allotment reverts to Soowahlie under section 9.6, the Person ceasing to be a Member shall remain liable for any obligations or liabilities, including environmental liabilities, or any or monies owing pursuant to any Interest or License they held prior to the date the Allotment or CP reverts to Soowahlie.

***Natural Resources***

- 9.8 Subject to applicable law, all Natural Resources in, or under Soowahlie Lands belong to Soowahlie and may not be removed unless such removal is authorized by Soowahlie Law or a Document validly granted pursuant to this Part 9.
- 9.9 The use and development of Natural Resources on or under Soowahlie Lands will be subject to this Land Code and all Soowahlie Laws and Land Use Plans.
- 9.10 Subject to sections 9.8 and 9.9, unless specifically excluded by the document granting any new Allotment of Soowahlie Lands, the Allotment includes all Natural Resources on or under that land to the extent they are under Soowahlie jurisdiction.

Existing Interests and Licenses

***Continuation of Existing Interests and Licenses***

- 9.11 An Interest or License in Soowahlie Lands that is legally in effect when this Land Code comes into effect will, subject to this Land Code, continue in force in accordance with the terms and conditions of that Interest or License.
- 9.12 All existing Interests and Licenses will be subject to the terms and conditions set out in this Land Code and to any relevant Laws, Land Use Plans or regulations passed into relation to this Land Code. For greater certainty, Soowahlie is not liable for any decrease in value or use of an Interest or License arising in relation to a Law, Land Use Plan, or regulation duly passed in relation to this Land Code.
- 9.13 Council may, by Resolution, upon receiving compelling evidence from any source, or a ruling under Part 9 or by a court of competent jurisdiction, confirm, cancel, discharge, amend or correct any Interest or License issued or allotted in error or by fraud or that has expired.

**VERIFIED**

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New Interests and Licenses

***Authority to Make Dispositions***

9.14 Council may grant, in accordance with this Land Code:

- (a) Subject to (b), (c) and (d) directly below and subject to subsection 4.9, Interests or Licenses in Soowahlie Lands;
- (b) Permits or Licences to occupy or to take Natural Resources from Community Lands;
- (c) Life Estates in Community Lands;
- (d) Certificates or other documentation to confirm ownership or another type of Interests in a home, structure or Interests;
- (e) Permits, Easements, statutory rights-of-way, Licences or other Interests or Licenses for utilities or Persons for Soowahlie Lands; and
- (f) With the written consent from a CP-holder, Life Estates or Permits or Licenses to use, occupy or take Natural Resources from CP lands.

***Conditional Grant***

9.15 In addition to section above, Council may attach specific conditions to the grant of an Interest or License but any such conditions must be set out in writing in the granting of the Interest or License.

Allotments and Certificates of Possession (CP's)

9.16 Subject to this Land Code and any relevant Soowahlie Laws, Land Use Plans, regulations and policies approved by Council Resolution, Council may grant:

- (a) An Allotment to a Member for Residential Use by Council Resolution; and
- (b) An Allotment to a Member for non-Residential Use only after holding a Ratification Vote.

9.17 Any law or policy relating to Allotments for Residential use and any decision to grant an Allotment for Residential Use shall include:

- (a) A legal surveyed lot including legal description as set out by a Canada Lands surveyor;
- (b) A fair process to ensure that members who do not yet have an Allotment or CP have an opportunity to apply for one; and
- (c) An assessment of whether hook-up, servicing, or other fees are required to cover or offset expenses incurred by Soowahlie in acquiring or developing the lot; and may include:
- (d) Requirements for Members to sign an Acceptance of Home Ownership form to confirm that they realize they will be responsible for paying any applicable mortgage, insurance, utility or other fees.

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- (e) Upon execution of the allotment council will direct the Lands Governance Office to register the allotment in the Lands Registry system and issue a CP.

9.18 Despite any other provision of this Land Code, a Person who is not a Member cannot hold an Allotment or CP in Soowahlie Lands.

***Granting of Interests or Licenses in CP held lands***

9.19 A Member or Members holding an Allotment or CP in Soowahlie lands may grant, transfer, devise, or grant by way of a Matrimonial Real Property agreement, a Leasehold, Mortgage, Life Estate, Easement, Permit, or License in those lands by a written document registered in the Lands Registry provided that:

- (a) The Member or Members are the sole lawful possessor of the Allotment or that any other Member with an interest in the Allotment states in writing that they do not oppose the transaction or the granting of the Sub-Interest;
- (b) There is a proper legal description of the lands, Interest or License, and if required, there is a survey registered in the Lands Registry;
- (c) The Member or leaseholder receives a letter from the Lands Governance Director or, if required by Law or regulation, a Council Resolution, stating that the transaction or Sub-Interest complies with this Land Code and all Soowahlie Laws, Land Use Plans and Bylaws; and
- (d) The Member states in writing that the transaction or terms of the document creating the Sub-Interest will not violate any agreement with a Person who has, or will have, an interest in the lands affected, or any portion thereof or the Member has obtained the written consent of the other interest holder or holders.

9.20 Unless specified in the grant, transfer, Spousal Property agreement, or testamentary disposition creating the Life Estate, a Life Estate does not create any rights to:

- (a) Natural Resources;
- (b) Assign or transfer the Life Estate;
- (c) Create or transfer any Sub-Interests; or
- (d) To receive rents or other revenues from the home, Allotment or CP.

9.21 A Member granting a Leasehold, Life Estate, easement, Permit or License under section 9.19 may grant that Sub-Interest to himself or herself in the same manner as to another Person.

9.22 A Person holding a Leasehold in Soowahlie Lands may grant a Sub-lease, Easement, Permit or License in those lands by a written document registered in the Lands Register provided that:

- (a) The grant complies with the Land Code and all Soowahlie Laws and Bylaws;
- (b) The grant is permitted by the terms of the Lease;

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- (c) There is a proper legal description of the lands, Interest or License, and if required, there is a survey registered in the Lands Registry;
- (d) The Member or leaseholder receives a letter from the Lands Governance Director or, if required by Law or regulation, a Council Resolution, stating that the transaction or Sub-Interest complies with this Land Code and all Soowahlie Laws, Land Use Plans and Bylaws; and
- (e) The term of the Interest or License granted does not exceed the duration of the Leasehold.

9.23 The granting of a Leasehold does not grant any Interest or License in the Natural Resources on or under the lands described in the Lease unless specifically included in the terms and conditions of the Lease.

9.24 For transactions under this Part,

- (a) Neither the Soowahlie Lands Office nor the Lands Governance Director are obligated to undertake any investigations or due diligence and will not be responsible or liable for any breaches of those provisions for any representation or warranty made by the Person granting the Interest or License; and
- (b) Without restricting the generality of (a) directly above, neither Soowahlie, the Soowahlie Lands Office nor the Lands Governance Director shall be liable or responsible for determining whether an Interest or License or Sub-Interest is in good standing or the terms have been complied with.

#### Development Permits

9.25 No Person may carry out any development, construction, renovation, expansion, land alteration, subdivision, installation of utilities, or connection to services on Soowahlie Lands without a Development Permit from Soowahlie unless the activity is already specifically approved or is exempted under a Soowahlie Law.

9.26 Carrying out any development without a Development Permit is an offence punishable upon summary conviction.

#### Stop Work Orders

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

- a) issue a Stop Work Order to order any Person who has not received full and proper authorization to cease carrying out any unauthorized development activity; or
- b) order any structures, works or installations carried out in violation of this Land Code or any Laws to be removed within 30 days, failing which Council may order them to be removed at the expense of the CP-holder or the Person who constructed or installed the structures, works or installations without proper

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authorization; and

- c) A Stop Work Order imposed under this Part may be registered in court and enforced as a court order; and continues in force until the condition that led to it is remedied or until the activity that is the subject of the Stop Work Order receives a permit or authorization from Soowahlie.

#### Transfer and Assignment of Interests and Licenses

##### *Transfer of Interests and Licenses*

- 9.28 Council may enact Laws providing that a Member holding an Interest or License in Soowahlie Lands may transfer, or otherwise dispose of that Interest or License to another Member or to Soowahlie.
- 9.29 A Member holding an Allotment or CP may sell or transfer that Allotment or CP to another member provided that:
  - (a) The member applies to the Lands Governance Director for a parcel abstract report and a list of any known outstanding issues relating to the Allotment or CP;
  - (b) There are no outstanding housing arrears, mortgage guarantees or other debts owing to, or guaranteed by, Soowahlie in relation to the land or home;
  - (c) The Member makes reasonable efforts to resolve outstanding issues relating to the Allotment or CP and reports these efforts to the Lands Governance Director; and
  - (d) The sale or transfer is Registered.
- 9.30 Where an Allotment or CP is transferred or reverts to Soowahlie other than in relation to the granting of a Mortgage, the Allotment and any CP issued are automatically cancelled and the lands described in the Allotment or CP become Soowahlie Community Lands.
- 9.31 Subject to this Part, a Person holding an Interest or License other than an Allotment or CP in Soowahlie Lands may transfer, assign or devise their Interest or License to any Person or entity by a written document provided the transaction complies with this Land Code and any Laws and is duly Registered.

#### Mortgages and Limits on Mortgages and Seizures

##### *Protections*

- 9.32 In accordance with the Framework Agreement, sections 29, 87, 89(1) and 89(2) of the *Indian Act* continue to apply on Soowahlie Lands but section 89 is modified as set out below.

##### *Mortgage of Members Interest*

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- 9.33 Except for a mortgage of a Member's Lease to himself or herself under section 9.19, the Interest of a Member in Soowahlie Lands other than a Leasehold may only be subject to a mortgage or charge to Soowahlie or to another Member.
- 9.34 Subject to section 9.30 the holder of an Allotment, Leasehold or Interest may, in accordance with this section grant a Mortgage of that Interest.
- 9.35 The holder of an Allotment may only grant a Mortgage of that interest to a Member or to Soowahlie.
- 9.36 The holder of an Allotment who has granted himself or herself a Leasehold under section 9.19 may grant a Mortgage of this Leasehold to any Person.
- 9.37 A Leasehold in Soowahlie Lands, including Allotted Lands, that is held by an Indian as that term is defined in the *Indian Act*, is subject to charge, pledge, mortgage, attachment, levy, seizure, distress, and execution by a mortgagee, and the mortgage has all the same legal and equitable rights it would have had if the Leasehold were held by a non-Indian and, for greater certainty, the mortgagee has a right of access onto Soowahlie Lands and onto the leasehold lands if necessary to deal with seizure, forfeiture or any related matter.
- 9.38 A Mortgage of an Interest permitted under this Land Code may be granted by document registered in the Lands Registry provided that:
- (a) The land is the lawful possession of the member(s) granting the Mortgage, or the Leaseholder or License holder granting the mortgage holds the entire legal and beneficial interest in the Leasehold or License;
  - (b) The granting of the Mortgage and the terms of the Mortgage are permitted by the provisions of the Allotment, Lease or License;
  - (c) There is a proper legal description of lands that are to be subject to the Mortgage and, if required, the lands have been surveyed and the survey Registered;
  - (d) In the case of a Mortgage of a Leasehold or License, the Mortgage term does not exceed the duration of the Leasehold or License;
  - (e) Soowahlie has a right of first refusal to redeem the mortgage if there is a default.
- 9.39 Neither Soowahlie, the Soowahlie Lands Office, nor the Soowahlie Lands Governance Director shall be responsible or liable for ensuring that the Lease or License permits the interest in the land to be mortgaged or that the Lease or License is in good standing or its terms have been complied with.

***Power of Redemption***

- 9.40 If Council exercises Soowahlie's Power of Redemption with respect to Leasehold Interests, Soowahlie becomes the lessee of the land and takes the position of the charger or mortgagor for all purposes after the date of redemption.

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Residency and Access; Trespass

***No Financial Obligations***

9.41 A right of residence on, or access to, Soowahlie Lands does not create any financial obligation on the part of Soowahlie.

***Trespass***

9.42 Subject to any Soowahlie Laws, any Person who resides on, enters, remains on, or solicits on Soowahlie Lands other than in accordance with a valid legal interest or agreement or residence or access right under this Land Code is guilty of a summary offence, punishable by summary conviction or in accordance with Soowahlie Laws, and may be immediately evicted from Soowahlie Lands.

9.43 Subject to any Laws or bylaws, all civil remedies for trespass are preserved.

9.44 Any Person who trespasses on Soowahlie Lands is deemed to have willingly assumed all risks and to accept all liabilities relating to their trespass.

***No Liability***

9.45 No liability shall be imposed upon Soowahlie in respect of any Person who is accessing or using Soowahlie Lands under this Land Code or Interests or Licenses granted under this Land Code for injuries or damages suffered on account of the condition or state of Soowahlie Lands.

Transfer or Death or Mental Incompetence

9.46 In making any decision on its merits under this Part, Council shall consider:

- (a) All input, requests or recommendations from Immediate Family Members and the Committee;
- (b) Any outstanding loans or financial obligations in relation to the Interest or Licenses in the lands in question and may give priority to the arrangement that is most likely to result in ensuring these loans or financial obligations are paid out; and
- (c) All other relevant information.

***Right of Widow or Widower***

9.47 In the event that:

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- (a) A Member holding an Interest or License in Soowahlie Lands dies without a will and is survived by a Spouse or dependent who does not hold a registered Interest or License in that land; or
- (b) A Member holding an Interest or License in Soowahlie Lands is declared incompetent due to mental incapacity;

the Member's Spouse and/or dependents may, subject to any Soowahlie law, or order by the Minister or a court, where their usual place of residence was with the Member at the time of Members death or declaration of incompetence, continue to reside on and use the land until the Member's Interest or License is disposed of under this Part.

9.48 A Spouse or dependent referred to in section 9.47 whether or not their usual place of residence was with the member at the time of the Member's death or declaration of incompetence, may make application for transfer of the Member's Interest or License, and Council will, subject to this Land Code, evaluate the application on its merits and make a recommendation to the Minister.

***Notification***

9.49 Pursuant to the Land Code, in the event that;

- (a) No other provision has been made by a Member referred to in section 9.47 for the disposition of the Interest or License in Soowahlie Lands;
- (b) The Member's Spouse or dependent does not within 3 months make application under section 9.48; or
- (c) A Member of the Member's Immediate Family disputes the continued residence on and use of the land by the Member's Spouse or dependent.

Council or the Lands Governance Director shall take reasonable steps to advise other members of the member's Immediate Family that the land held by the Member is available for disposition or is in dispute.

***Optional Meeting of Members or Committee***

9.50 If a Member's Immediate Family does not within 3 months after the date of Member's death or declaration of incompetence under section 9.47 recommended who is to receive the Interest or License, Council may refer the matter to the Committee or call a Meeting of Members to provide advice on the disposition of the Interest or License.

***If Competing Members, Council Decides***

9.51 If there is more than one Immediate Family member interested and eligible to take the Interest or License in the Land arising from section 9.47, Council will, after taking into account any information received under section 9.49 and 9.50, recommend to the Minister on the merits who should receive the Interest or License.

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***Council may Comment on Outstanding Debts***

9.52 In making a recommendation under section 9.51, Council may include recommendations or comments on dealing with any outstanding debts or liabilities relating to the Interest or License to be transferred.

***Council to Make Best Efforts to Influence Minister***

9.53 Council will make best efforts to influence the Minister of the Indigenous Affairs and Northern Development to implement recommendations made under this Part but is not liable in any way for any decisions made or not made by the Minister of the Indigenous Affairs and Northern Development in relation to Interests or Licenses or transfers to this Part.

Spousal Property Law

***Development of Rules and Procedures***

9.54 Within twelve months after the date this Land Code comes into effect Council will enact a Spousal Property Law providing rules and procedures applicable on the breakdown of a marriage to:

- (a) The use, occupancy and possession of Soowahlie Lands that may be subject to Interests or Licenses held by spouses; and
- (b) The division of Interests in that land.

***Enactment of Rules and Procedures***

9.55 For greater certainty, the rules and procedures contained in the Spousal Property Law will be developed in consultation with the Members and the Committee.

***General Principles***

9.56 The rules and procedures developed under section 9.54 will take into account the following general principles:

- (a) Regard for the best interests of any children of the marriage;
- (b) The distinction between Members and Non-Members for the purpose of determining what Interests in Soowahlie Lands may be held by an Individual; and
- (c) The rules and procedures will not discriminate on the basis of gender.

***Interim Law***

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9.57 Council may enact an interim Spousal Property Law at any time within the twelve-month period set out in section 9.55.

9.58 An Interim Law enacted under section 9.57 will be deemed to be repealed twelve months after the coming into force of this Land Code but may be re-enacted in whole or as amended, in accordance with section 9.55-9.56.

## PART 10 DISPUTE RESOLUTION

### Adjudicator of Disputes

#### *Informal Resolution of Disputes*

10.1 Soowahlie intends that whenever possible, a dispute in relation to Soowahlie Lands will be resolved through informal discussion by the parties to the dispute and nothing in this Part will be construed to limit the ability of the parties to a dispute to settle a dispute without recourse to this Part.

10.2 Soowahlie further intends that whenever possible, a dispute in relation to Soowahlie Lands that is not resolved by informal discussion by the parties may be resolved through voluntary participation of the parties to the dispute in a tribal or alternate justice forum.

#### *Adjudicator Established*

10.3 The Office of the Adjudicator is hereby established to hear and resolve disputes in relation to Soowahlie Lands in accordance with the Land Code and relevant to Soowahlie Laws and Policies.

10.4 The Adjudicator will be a Barrister and Solicitor and a member of the British Columbia Bar who is independent of the parties to a dispute and to other Interest or Licenses in the dispute.

### Dispute Resolution Procedure

#### *Disputes*

10.5 The parties to a dispute in relation to Soowahlie Lands, after demonstrating they have made efforts to resolve the dispute under 10.1-10.2 and providing any information, application and fees required under Soowahlie Law, may notify Council in writing that they wish to refer the dispute to the Adjudicator for resolution.

#### *Prior Disputes*

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10.6 Subject to Soowahlie Laws, disputes in relation to Soowahlie Lands that originated before this Land Code comes into effect may be referred to the Adjudicator.

***Council to Appoint***

10.7 Council will appoint the Adjudicator within thirty days or in a timely manner as required to settle any dispute referred to Council in accordance with this Land Code and any Soowahlie Laws or procedures.

***Optional Process***

10.8 Referral of a dispute to the Adjudicator is optional and all other civil remedies continue to be available to all parties to the dispute.

***Application Procedure***

10.9 Referral of a dispute to the Adjudicator will be made in accordance with procedures established by Council in consultation with the Committee.

***Limitation Period***

10.10 Unless otherwise determined by a Council Resolution, Soowahlie Law, or court order, the limitation period for referring a dispute to the Adjudicator is:

- (a) Ninety days after the day of the decision, act or omission that is the subject of the dispute occurred;
- (b) In the case of a dispute under section 9.46-9.52 (transfer on death or mental incompetence, twelve months after the date of the final decision of Council under that section);
- (c) In the case of historic grievances not involving Indian and Northern Development Canada, within twelve months of the Effective Date of this Land Code; and
- (d) For any other disputes, such reasonable time period as Council may decide by Council Resolution or a Court may decide on the merits for each situation.

***Duty to Act Impartially***

10.11 The Adjudicator will act impartially and without bias for favour to any party in a dispute.

***Offence***

10.12 It is an offence for a Person to act, or attempt to act, in an improper way to influence the decision of the Adjudicator.

***Rejection of Application***

10.13 The Adjudicator may refuse to hear or decide an application:

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- (a) If, regardless of whether a Person has been found to have committed an offence under section 10.12, the Adjudicator reasonably concludes that the applicant acted, or attempted to act, in a way to improperly influence the Adjudicator's decision; or
- (b) one or more of the parties refuse to accept the Adjudicator's proposal to retain professionals who are, in the reasonable opinion of the Adjudicator, required to resolve the dispute.

Powers of the Adjudicator

***Power of the Adjudicator***

10.14 The Adjudicator may, after hearing a dispute:

- (a) direct that an action be taken or ceased;
- (b) rescind or cancel and/or refer the matter or dispute for reconsideration by the decision-maker; or
- (c) refer the matter to a tribal, alternative justice or other forum.

10.15 The Adjudicator has the authority to order one, both, or all of the Parties to pay some or all of the costs of the adjudication process, including but not limited to the costs of the Adjudicator and any professionals retained, taking into account:

- (a) the reasonableness of the Parties in their positions;
- (b) the conduct of the Parties;
- (c) the result of the adjudication;
- (d) the use of professional services; and
- (e) any other relevant factor.

10.16 An order from an Adjudicator may be entered into court and enforced through the court.

Adjudication Procedures

***Rules of Adjudicator***

10.17 The Adjudicator may, consistent with this Land Code, establish rules for procedure at its hearings and for the general conduct of proceedings.

***Professional Services***

10.18 Prior to retaining the services of any professionals to assist in fulfilling his or her functions, the Adjudicator will notify the Parties to the dispute of the proposed professionals and their estimated services and costs.

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10.19 Upon agreement of the Parties, the Adjudicator may retain the services of professionals to assist in fulfilling his or her functions, in which case they will make best efforts to use professional services available in the community who do not have a conflict of interest.

***Decisions***

10.20 The Adjudicator will give written reasons for a decision and will sign the written reasons.

10.21 Subject to section 10.22 (Appeal of Decision), a decision of the Adjudicator is binding.

***Appeal of Decision***

10.22 Subject to any exception established by Law, a decision of the Adjudicator may be appealed to a court of competent jurisdiction.

***Costs***

10.23 Unless otherwise ordered by the Adjudicator or an appellate court, the parties to a dispute will bear their own cost and an equal share of the costs of the adjudication process.

10.24 For greater certainty, Soowahlie will not be liable or responsible for the costs of any dispute resolution process where Soowahlie is not a party.

***Alternate Forums***

10.25 Nothing in this part precludes Council or the Committee from establishing additional processes for resolving disputes under this Part, which process may include facilitated discussion, mediation, arbitration, or referral to a tribal, First Nations Lands Advisory Board or other forum.

**PART 11            OTHER MATTERS**


**Liability**

11.1 Soowahlie 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 date this Land Code comes into force.

11.2 This Land Code is not, nor shall it be interpreted as being, a waiver by Soowahlie in regard to any liabilities, acts, or omissions of Canada.

11.3 Council will arrange for, maintain, and pay insurance coverage for:

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- (a) Liability of Soowahlie in relation to Soowahlie Community Lands and assets; and
- (b) Personal liability of Soowahlie Lands Department employees, Enforcement Officers or Committee Members for acts done in good faith while engaged in carrying out duties related to Soowahlie Lands under this Land Code.

***Extent of Coverage***

11.4 Council will determine the extent of insurance coverage reasonably required under section 11.3

***Severability***

11.5 If any provision is determined by a court of competent jurisdiction to be illegal or unenforceable, that provision will be considered separate and severable, and the legality or enforceability of the remaining provisions will not be affected by that determination.

Offences and Enforcement

***Application of the Criminal Code***

11.6 Unless otherwise provided by a Law, the summary conviction procedures or Part XXVII of the *Criminal Code* apply to offences under this Land Code and offences under a Law.

11.7 Despite paragraph 11.6:

- (a) A Law may provide for fines consistent with federal law, including fines of up to \$100,000 for violations for specified provisions of the Law;
- (b) A Law relating to environmental protection may include punishments at least equivalent in their effect to any standards established and punishments imposed by laws of the Province of British Columbia; and
- (c) A Law may provide for a variety of enforcement mechanisms including ticketing, stop work orders, administrative penalties, restorative orders, and fines.

***Enforcement***

11.8 Council may enact any enforcement Law or procedures authorized under the Act or the Framework Agreement including any provisions consistent with federal law for inspections, searches, seizures and compulsory sampling, testing and the production of information.

11.9 Council may enact Laws respecting appointment of justices of the peace for the enforcement of this Land Code and Laws.

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- 11.10 If no justice of the peace is appointed, this Land Code and Laws are to be enforced by a Court of competent jurisdiction.
- 11.11 Council may enact laws or develop policies to enable appropriate enforcement issues and disputes to be dealt with through Qwí;qwelstóm or other relevant tribal or community justice process.
- 11.12 Council may enact Laws to create ticketing processes or similar enforcement mechanisms or to incorporate such processes or enforcement mechanisms from provincial or local government sources.

Amendments to Land Code

- 11.13 This Land Code may be amended from time to time.
- 11.14 Council, with the advice of the Lands Governance Director or the Lands Advisory Committee, may make minor amendments to this Land Code by Resolution to correct typos, correct or clarify references or cross-references, fill in gaps, update the Land Code in relation to templates or advice from the legal counsel or the Lands Advisory Board, or remedies inconsistencies.
- 11.15 Council or the Lands Office will post all proposed amendments in the Soowahlie Office and will make best efforts to provide notification of any proposed amendments to all Members.
- 11.16 Council may amend the Land Code by Council Resolution to address matters of the type referred to in section 11.14 but all significant amendments to this Land Code must be done by Ratification Vote.
- 11.17 A Ratification Vote on an amendment to the Land Code will be approved where a Majority of those Eligible Voters who cast a vote, in accordance with voting procedures approved by Council, vote by secret ballot in favor of the manner.
- 11.18 A Verifier is not required for a Ratification Vote to amend this Land Code.

Commencement

**Ratification**

- 11.19 This Land Code will be ratified if:
  - (a) The eligible voters approve this Land Code and the Individual Agreement with Canada by Ratification Vote held in accordance with the Soowahlie First Nation Community Ratification Process dated for reference January 11, 2016; and
  - (b) This Land Code has been certified by the Verifier pursuant to the Framework Agreement.

**VERIFIED**

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11.20 This Land Code and the Individual Agreement will be approved if a sufficient number of Eligible Voters vote to approve them in accordance with the majority and the threshold requirements set out in the Soowahlie First Nation Community Ratification Process dated for reference January 11, 2016.

***Effective Date***

11.21 This Land Code will come into effect on the later of:

- (a) The first day of the month following certification of this Land Code by the Verifier, provided the Individual Agreement has been executed on behalf of Canada; or
- (b) The date the Individual Agreement is executed on behalf of Canada.

**VERIFIED**

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