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Opaskwayak Cree Nation Land Law



Land Law For Establishing a Land Authority

Enacted this 10th day of March, 2003
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Land Law 2003/002
Amended: 2012/001

NEKANOOTAWINĒK - TIPĀNIMISOWIN

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LAND LAW FOR ESTABLISHING A LAND AUTHORITY

PREAMBLE

WHEREAS the Opaskwayak Cree Nation (OCN) entered into solemn Treaty arrangements with Her Majesty's Government of the Dominion of Canada by adhesion to *Treaty #5*;

AND WHEREAS the Opaskwayak Cree Nation did not through said Treaty give up their authority to be a self governing people;

AND WHEREAS the Opaskwayak Cree Nation has entered into the *Framework Agreement on First Nation Land Management* with Canada on February 12, 1996, as amended and as ratified on behalf of the Government of Canada by the *First Nation Land Management Act*, S.C. 1999, C.24;

AND WHEREAS the Opaskwayak Cree Nation had the option of withdrawing its lands from the land provisions of the *Indian Act* in order to exercise control and management over its lands and resources for the use and benefit of its members, rather than having its lands managed on its behalf by Canada;

AND WHEREAS the Opaskwayak Cree Nation, through a vote of its membership held on June 17, 18, 19, and 20, 2002, have enacted and ratified their own *Land Code*, for the purpose of setting out the principles, guidelines and processes by which Opaskwayak Cree Nation will exercise control and management over its lands and resources consistent with the *Framework Agreement on First Nation Land Management* and the *First Nation Land Management Act*;

AND WHEREAS the *Opaskwayak Cree Nation Land Code* took effect as of August 1, 2002 pursuant to the ratification of the membership of Opaskwayak Cree Nation;

AND WHEREAS the *Opaskwayak Cree Nation Land Code* authorizes the enactment of Land Laws, for the purpose of administration of lands and natural resources;

AND WHEREAS pursuant to Section 24 of the *Opaskwayak Cree Nation Land Code*, Chief and Council has enacted this Land Law for Establishing a Land Authority;

AND WHEREAS pursuant to Section 28.1 of this Land Law states "A recommendation from the Land Authority and/or Chief and Council, shall be required, before an amendmet can be made to this Law Law. Chief and Council may upon consultation through public meetings with the OCN Citizens, amend or enact further Land Laws within the jurisdiction of Council";

AND WHEREAS nothing in this Land Law shall alter, diminish, abrogate, derogate or breach the treaty and/or aboriginal rights of the Opaskwayak Cree Nation or its Citizens;

AND WHEREAS Chief and Council has deemed it necessary to amend the *Land Law for Establishing a Land Authority* and that consultation meetings were held pursuant to Section 28.1 of this Land Law;

THEREFORE IT IS HEREBY ENACTED that pursuant to Section 7.9 of the *Opaskwayak Cree Nation Land Code* by an absolute majority of Chief and Council at a duly convened meeting which was open to OCN Citizens, this "Land Law for Establishing a Land Authority" constitutes the Land Authority for Opaskwayak Cree Nation to administer, monitor, enforce, and assess levies, charges of rental or fees, and compliance issues against Interests and Licences located on Opaskwayak Cree Nation Lands as are required from time to time.

AND FURTHER THAT this Land Law for Establishing a Land Authority has been amended as of July 23, 2012;

1. Name

Title of the Land Law

- 1.1** This Land Law shall hereinafter be known as the "*Land Law for Establishing a Land Authority*," or "Land Authority," for short.

2. Interpretation

Definitions

- 2.1** "Appeal Panel" means a panel established by Chief and Council to hear complaints or contentious issues and render a decision on an appeal, Chief and Council and the Land Authority shall be informed of the outcome;

"Chief and Council" or "Council" means the members of the Chief and Council of the Opaskwayak Cree Nation acting collectively for the benefit of its members;

"Elder" means an elder that sits on the Council of Elders and appointed by Chief and Council to provide advice and spiritual guidance;

"Eligible Voter" means for the purpose of voting in respect to land matters under this Land Law, a OCN Citizen of Opaskwayak Cree Nation who has attained the age of 18 years, on or before the day of the vote;

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“Immediate Relative” includes spouse (legal or common law); child (natural or custom/adopted); parent or stepparent; brother/sister or stepbrother/stepsister (natural or custom/ adopted);

“Interest” means any interest, rights or estate of any nature in or to that land, including lease, easement, right of way, permits, servitude, or profit á prendre, but does not include title to the land;

“Land Authority” means the executive body that set out the principles, guidelines, rules, procedures and processes by which Opaskwayak Cree Nation will exercise control and management over its lands and resources consistent with the *Framework Agreement on First Nation Land Management and the First Nation Land Management Act*;

“Lands Division” means the administration office for land issues;

“Land Law” means any Land Law enacted pursuant to *OCN Land Code*;

“License” means any right of use or occupation on OCN Lands other than an Interest;

“Land Authority Member” means a member of the Land Authority, either appointed by Council or elected, to take office as a Land Authority Member of the Land Authority;

“OCN Citizens” means a person whose name appears on Opaskwayak Cree Nation membership list (opaskwayak kowtukisochik).

“OCN” or “Opaskwayak Cree Nation” means the collective body of OCN Citizens governed by a Chief and Council exercising collective and individual rights for Opaskwayak Cree Nation, including inherent rights to self government, and signatory to *Treaty #5*;

“OCN Lands” means all those lands referred to in the *OCN Land Code*, including all the interests, rights and resources that belong to those lands;

“*OCN Land Code*” means the *Opaskwayak Cree Nation Land Code* enacted by the eligible registered voting OCN Citizens;

“Resolution” or “Band Council Resolution” means a written resolution signed by Chief and Council giving consent and approval on land matters.

“Youth” means a youth who has been elected member of the Junior Chief and Council to provide advice from the youth’s prospective.

Paramountcy

2.2 For greater certainty, terms shall have the meaning or definitions attributed to them in the *Framework Agreement on First Nation Land Management* and/or the *First Nations Land Management Act*, and/or the *OCN Land Code* and/or the *Individual Transfer Agreement*, except where same conflict with a meaning set out herein.

Gender

2.3 Wherever words importing the singular include the plural and vice versa, words importing one gender include the other gender and words importing individuals include corporations and other like bodies and vice versa.

Headings

2.4 The headings used in this Land Law have been inserted for convenience only and shall not be used in the interpretation of any of the Section hereof.

Calendar Days

2.5 Any reference in this Land Law dealing with time frames such as days shall be calendar days.

3. Council Authorized

Council Authority

3.1 The Council is hereby authorized to enact and to enter into such agreements and declarations at its sole discretion it deems appropriate to maintain, operate and give effect to the actions, operations and decisions of the Land Authority, to serve the needs of OCN Citizens.

4. Structure

Governing Structure

4.1 The Land Authority is the executive body of the Lands Division, reporting to the Chief and Council and the OCN Citizens. The Land Authority is responsible for:

- (a) the implementation of the *OCN Land Code*;
- (b) the development and implementation of Land Laws, regulations, and policies;

- (c) the governance of land related matters; and
- (d) the enforcement of enacted Land Laws, regulations and policies relating to land.

Land Division

4.2 Land Manager is the senior manager responsible for the day to day operations, of the Lands Division administration and management of lands and resources of Opaskwayak Cree Nation and is responsible for reporting to the Land Authority on a monthly basis.

Land Division Staff

4.3 Land Division Staff are additional staff required to ensure that operations of the Lands Division are maintained in an effective and efficient manner as directed by the Land Manager.

Head Office

4.4 The head office of the Land Authority will be at Opaskwayak Cree Nation.

5. Chief and Council

Powers and Duties

- 5.1 The Chief and Council, pursuant to authority granted in the *OCN Land Code*, shall exercise the following powers and duties:
- (a) shall appoint by motion, two (2) Land Authority Members shall be selected from the sitting membership of the Chief and Council, to sit until replaced by motion of Chief and Council, or until their term of office as members of Chief and Council expires;
 - (b) shall appoint by motion a non-voting, ex-officio Land Authority Member selected from the sitting OCN Junior Chief and Council as the Youth representative, until their term of office as a member of the Junior Chief and Council expires;
 - (c) shall appoint by motion a non-voting, ex-officio, Land Authority Member selected from the Council of Elders as Elder representative.
 - (d) shall acknowledge suspension of a Land Authority Member of the Land Authority;

- (e) shall oversee the actions of the Land Authority to ensure that the Land Authority Members act prudently, reasonably, and at all times abide by the principles and provisions of this Land Law;
- (f) to review annual report submitted by the Land Authority;
- (g) act in place of the the Land Authority, where the Land Authority are unable to act by reason of conflict of interest, gross malfeasance, dereliction of duty, financial insolvency or failure to adhere to and follow this Land Law;
- (h) may from time to time, make recommendations to the Land Authority with respect to the operation and management of the Land Authority,
- (i) may from time to time or delegate the Land Authority to prepare and recommend Land Laws that would require enactment,
- (j) will be responsible for enacting all Land Laws, pursuant to Section 6 of the *OCN Land Code* and Council shall participate in any community approval meeting process requiring their attendance;
- (k) upon recommendation from the Land Authority, Chief and Council will give final approval for the Land Authority and Lands Division budget, pursuant to Section 19.8 of the *OCN Land Code*;
- (l) will make available to the OCN Citizens an audit report and information regarding land activities, at Council's annual community meeting;
- (m) approve any further amendments to this Land Law, such amendments shall include a consultation process with OCN Citizens by way of a community meeting, prior to the final approval by an absolute majority of Council;

for purposes of this Land Law, it shall be understood that the rights and powers of Chief and Council, shall be exercised through an absolute majority of Chief and Council.

6. Land Authority

Functions

6.1 The functions of the Land Division shall be managed by the Land Authority.

Composition

6.2 The Land Authority will comprise of:

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- (a) four (4) voting Land Authority Members elected in accordance with the *Land Authority Regulation*;
- (b) two (2) voting Land Authority Members appointed by Chief and Council in accordance with this Land Law;
- (c) an Elder, appointed by Chief and Council, as an ex-officio Land Authority Member in accordance with this Land Law; and
- (d) an Youth, appointed by Chief and Council, as an ex-officio Land Authority Member in accordance with this Land Law.

Term

6.3 The term of office of the Land Authority Members shall be:

- (a) voting Land Authority Members appointed by Chief and Council, shall be for a term not exceeding the term of the office in which they are sitting as Council members;
- (b) voting elected Land Authority Members shall be for a term of four (4) years;
- (c) the ex-officio Youth Land Authority Member appointed by Chief and Council, shall be for a term not exceeding the term of the office in which they are sitting, and
- (d) the Elder(s) shall sit as an ex-officio Land Authority Member.

Vacancy

6.4 When a position of a Land Authority Member becomes vacant, the position may be filled through the following method for:

- (a) the Councillor appointed to the position of Land Authority Member, the position shall be filled by Council, appointing another Councillor to the vacant position and shall hold that office for the unexpired portion of the term;
- (b) elected Land Authority Member, where there is a vacancy, a by-election shall be called if there is more than ten (10) months remaining in the term and the newly elected Land Authority Member will hold the office for the unexpired portion of the term;
- (c) the youth appointed Land Authority Member, the position shall be filled by Council appointing another Youth from the Junior Chief and Council to the vacant position and shall hold that office for the unexpired portion of the term;

- (d) the Elder, the position of a new Elder will be by appointment from time to time, by Council.

Honorarium

- 6.5** Honorarium may be awarded in accordance with financial policies adopted by the Land Authority and subject to the availability of funds within the annual operating budget.

Land Authority Members

- 6.6** The Land Authority Members must be a voting OCN Citizen.

Off-Reserve Land Authority Member

- 6.7** The Land Authority Members living off OCN Lands; must upon being elected, reside within a fifty (50) kilometre radius of OCN Reserve 21E.

Reside on OCN Lands

- 6.8** The majority of the Land Authority Members must reside on OCN Lands.

Eligibility to sit

- 6.9** Pursuant to the *OCN Land Code*, to be eligible to sit as a Land Authority Member:
 - (a) no Immediate Relative can sit as a Land Authority Member;
 - (b) must not be an employee of the Lands Division;
 - (c) not have been convicted by way of indictment within five (5) years prior to their nomination excluding convictions arising from assertion of aboriginal and treaty rights or title;
 - (d) have no claims filed for bankruptcy or be under the supervision of a trustee in bankruptcy;
 - (e) not have been convicted of a corrupt or fraudulent practice in connection with an election, including accepting a bribe, dishonesty or wrongful conduct.

Stepping down as
Land Authority Member

- 6.10** In the event of a Chief and Council election, an elected Land Authority Member, has been declared as Chief or Councillor, that Land Authority Member pursuant to Section 19.1 (e) of this Land Law will have ceased their position as Land Authority Member.

Declaration of Acceptance

6.11 Upon being nominated as a candidate, each nominee shall sign a declaration of acceptance form in which they swear that they meet the requirements set out in Section 6.9 of this Land Law. If a declaration of acceptance is not signed by the candidate, their name will not be placed on the ballot for voting purposes during the election process.

7. Election of Land Authority

Regulation

7.1 The Chief and Council has adopted *OCN Land Authority Election Regulation* for procedures for holding an election or by-election for the Land Authority Member and those regulations shall consist of:

- (a) appointment of electoral officer and deputies;
- (b) process prior to and during nomination meeting;
- (c) reports from the nomination meeting
- (d) process for mail out ballots; and/or advance polling station;
- (e) process for election day and counting of votes;
- (f) declaration of elected Land Authority Members;
- (g) reports from the election;
- (h) appeal process;
- (i) by-election process; and
- (j) amendment process.

Eligible OCN Citizens

7.2 To be eligible to participate in the election process for the Land Authority, an OCN Citizen must be of the full age of eighteen (18) and must be a registered Eligible Voter, on or before the date in which either the nomination meeting and/or election are to be held.

Requirement for Candidates

7.3 To be eligible as a candidate during the election process, a nominee must comply with Section 6.9 of this Land Law.

Term of Office

7.4 The term of office for the elected Land Authority Members will be for a period of four (4) years commencing on May 20 of the year in which a General Election is held.

Oath of Office

7.5 The eligible OCN Citizen elected or appointed to the Land Authority, shall, before assuming the duties of the office, make an affidavit of qualification and take the oath of office in a form to be prescribed by Land Authority.

8. Duties of the Land Authority

Duties

8.1 The Land Authority, shall, through its Land Authority Members and Lands Division staff, be responsible for the overall administration and maintenance of the Land Authority and without restricting the generality of the foregoing, shall be responsible specifically to:

- (a) oversee OCN Lands management in accordance with the terms and conditions of the *OCN Land Code*;
- (b) assist with the development and implementation of the land administration system;
- (c) advise Chief and Council and its staff on matters respecting OCN Lands;
- (d) develop and maintain a Lands Registry System to organize and record Interests and Licenses in OCN Lands and ensure that duplicate transactions are forwarded to the First Nation Lands Registry in Ottawa;
- (e) develop and consult with OCN Citizens to recommend Land Laws, as may be directed by Chief and Council, the OCN Citizens, or as required by circumstances;
- (f) establish mandatory standards, criteria and forms for Interests and Licenses in OCN Lands and receive approval of those standards from Council;
- (g) approve and recommend to Council models of new leases, permits, licences, agreements, forms and precedents, and such other records and procedures as may be required;
- (h) maintain a register for all Land Laws, etc. with the assistance of the Land Division staff;

- (i) develop operating procedures and policies for the Land Authority regarding the administration of lands;
- (j) ratify and/or adopt by motion pre-existing administrative, personnel, financial, other policies and operating procedures until such time as the Land Authority creates their own;
- (k) develop, approve and recommend annual capital and operating budgets, as per *OCN's Financial Policy*, for review by Chief and Council for final approval;
- (l) spend money, and acquire and dispose of, and manage all chattels or real property, as set out in budgets approved by the Land Authority;
- (m) borrow money upon the approval of Chief and Council;
- (n) receive, review, approve and provide to Council and OCN Citizens an annual report on the activities and finances of the Land Authority;
- (o) supervise and monitor properties, programs and policies, and if deemed necessary, enforce policies or regulations in accordance with the policies of OCN;
- (p) approve, allocate, and administer permits, leases and licenses;
- (q) execute permits, leases and licenses which Chief and Council by "*Land Law for Governing the Use and Occupancy of OCN Lands*" as delegated to the Land Authority to execute on behalf of Chief and Council;
- (r) participate in the hiring of the Land Division staff and other contract positions as it deems necessary and will be in accordance with OCN's Personnel Policy;
- (s) from time to time assist in the dispute mechanisms pursuant to *OCN Land Code* where required;
- (t) consult and maintain communication with OCN Citizens, and to receive and respond to requests of OCN Citizens with respect to the maintenance, operation, administration of the Land Authority;
- (u) oversee community approval processes of enacting a Land Law which requires community approval.

Delegation Signing Authority

8.2 The "*Land Law for Governing the Use and Occupancy of OCN Lands*", outlines the signing officers that Chief and Council delegates for certain types of signing authority to the Land Authority or the Land Manager who will be the representative acting on behalf of Opaskwayak Cree Nation Chief and Council. These land transactions may include leases, permits, licences and agreements for a specific length of time or specific terms and conditions.

Execution of Transactions

8.3 Upon approval of granting an Interest or License in OCN Lands, the Land Authority and Lands Division staff shall ensure that the land transaction is executed by the approved signing authorities.

9. Meetings

Initial Meeting

9.1 At the initial meeting after the Land Authority election, the Land Authority shall:

- (a) select by motion from its voting Land Authority Members, a Chairperson and a Vice-Chairperson; and
- (b) designate signing authorities for specified and general purposes, including financial, banking matters, issuance and execution of specific land transactions.

Regular Meetings

9.2 The Land Authority will meet once a month, a minimum of twelve (12) regular meetings in a one (1) year period.

Notice of Meetings

9.3 Prior to holding a regular meeting, at least twenty-four (24) hours notice shall be given to the Land Authority Members informing them of the place, time and date of the meeting. Notice may be given by mail, fax, electronically or phone whichever method is acceptable to the Land Authority Members.

Special Meetings

9.4 If a special meeting of the Land Authority is called, the Land Authority Members shall receive notice, twenty-four (24) hours prior to the meeting stating the time, date, place and purpose of the special meeting. At a special meeting, no other matter shall be dealt with, except that purpose specified.

Decision at a Special meeting

- 9.5** A decision, motion, or resolution of a special meeting of the Land Authority shall be presented as information at the next regular Land Authority meeting.

Annual Meeting

- 9.6** In addition to the regular and special meetings, the Land Authority shall hold an annual meeting for the purpose of reviewing and passing the annual report, and may do so in conjunction with OCN's annual meeting.

Quorum

- 9.7** The quorum to hold a meeting will be a minimum of three (3) Land Authority Members in attendance.

Waiver

- 9.8** Notwithstanding any of the above, a quorum of the Land Authority, may by motion, waive any technical defect or invalidity of notice or procedure.

Conduct Meeting

- 9.9** The Land Authority will make rules for holding Land Authority meetings. These procedures will be consistent with those established by Chief and Council.

10. Chairperson

Chairperson

- 10.1** The Land Authority Chairperson shall preside over the meeting and shall not vote unless there is a tie, then the Chairperson may cast a vote.

Vice-Chairperson

- 10.2** In the absence of the Chairperson at a Land Authority meeting the Vice-Chairperson shall act as Chair.

Alternate Chairman

- 10.3** If only three (3) Land Authority Members are in attendance at a meeting, the Land Authority Members may appoint a staff member as alternate Chairperson for the duration of the meeting. This would allow for a quorum to proceed with the Land Authority meeting. The alternate Chairperson will not be able to cast a vote.

11. Portfolios

Assign Portfolios

- 11.1** In order to further the effective management of the Land Authority and to maximize the efficient use of time and resources, the Land Authority is authorized to assign portfolios to individual Land Authority Members with respect to different aspects of the operations and mandate.

12. Committees

Create Committees

- 12.1** The Land Authority is authorized to create committees, to negotiate on behalf of the Land Authority to undertake specific tasks, or to provide assistance and advice upon specific aspects of the Land Authority, its services, programs and mandates.

Term of Committee

- 12.2** Committees may be created by the Land Authority for such duration, including permanent or standing committees, and with such mandates or duties as the Land Authority sees fit.

Chair of Committee

- 12.3** The Chairperson of the committee shall be one (1) of the Land Authority Members and will make reports to the Land Authority upon request.

Committee Membership

- 12.4** Committee membership shall be appointed by the Land Authority. The membership of any committee shall be chosen from the OCN Citizens who are eighteen (18) years of age or older. The Land Authority shall determine the amount of members required to constitute the committee.

Procedures

- 12.5** The Land Authority shall have the right to determine the operating procedures of the committee, including whether the committee operates by vote of committee membership, or by decision of the committee Chairperson.

Honorarium

- 12.6** Committee members may from time to time be entitled to honorarium depending on the terms of reference for that committee and depending on availability of funds.

13. Annual Report

Annual Report

- 13.1** The Land Authority shall prepare an annual report pursuant to Sections 22.1 and 22.2 of the *OCN Land Code*, and the report will be made available to Chief and Council for presentation at a community meeting, upon request.

14. Auditors Report

Retain Auditor

- 14.1** The Chief and Council shall retain an auditor each year to prepare an audited financial statement of the Land Authority, a copy to be presented to Chief and Council and made available to OCN Citizens at a community meeting.

Auditors Report

- 14.2** Pursuant to Section 21.5 of the *OCN Land Code*, the auditor shall, within 120 days after the end of OCN's fiscal year, prepare and submit to Chief and Council, a report on OCN's Land Authority financial statements, stating whether, in the opinion of the auditor, the financial statements are presented fairly and the financial position of Opaskwayak Cree Nation.

Report to OCN Citizens

- 14.3** Pursuant to Section 21.7 of the *OCN Land Code*, the Chief and Council along with the Chairperson of the Land Authority shall present or make available, the auditor's report to OCN Citizens.

Time frames

- 14.4** Upon Chief and Council approval of the audit the Land Authority shall make every effort to conform with the time frame set in accordance with of this Land Law.

15. Annual Budget

Prepare Budget

- 15.1** The Land Authority shall draft the annual Lands budget for Council's approval at least thirty (30) days prior to new fiscal year. The budget approval, shall be in accordance with OCN Finance Policy.

If no Budget

15.2 If Chief and Council has not adopted a lands budget for a fiscal year prior to the beginning of that fiscal year, the lands budget and any supplementary lands budget of the previous fiscal year will apply until a new lands budget is adopted.

Supplementary Budget

15.3 If the Land Authority and Chief and Council deems it necessary, it may, in the course of the fiscal year, adopt supplementary budgets for that fiscal year.

16. Policies and Procedures

Policies and Procedures

16.1 The Land Authority, subject to this Land Law, may from time to time approve and enact, adopt or incorporate, amend and revise written policies and procedures, or policy manual or manuals, for the governance and administration of every aspect of the Land Authority.

17. Conflict of Interest

Guidelines

17.1 The Land Authority may determine conflict of interest guidelines and requirements in accordance with the following principles:

- (a) Employees - Lands staff shall not be eligible to sit as a Land Authority Member;
- (b) Disclosure of a Conflict of Interest - may include, but not limited to issues, arising directly or indirectly, actual or potential interest, obligations, assets, or business, either directly on their own behalf or indirectly through a business associate, or Immediate Relative which may conflict with the Land Authority Member's obligations and duties to the Land Authority, hereinafter known as an actual or potential "Conflict of Interest", at the time of their becoming aware of it:

therefore all Land Authority Members shall disclose at the meeting, prior to addressing the issue, that he may have a conflict of interest and the disclosure will be noted in the minutes, and the Land Authority Member in conflict, shall not participate or vote and shall excuse himself from the meeting where a disclosure was noted.

- (c) Failure to Disclose - a Land Authority Member who knowingly fails to disclose such a conflict of interest may be subject to penalties as the Land Authority may find to be appropriate, which may include the suspension of the Land Authority Member from the Land Authority in accordance with Section 18 of this Land Law;
- (d) Outside Disclosure - any other person or party may, in writing, notify the Land Authority of an actual or potential conflict of interest of any Land Authority Member;
- (e) Land Authority Review - on receiving notice in writing or verbal of an actual or potential conflict of interest, the Land Authority shall:
 - (i) review the matter and determine whether a conflict of interest exists;
 - (ii) advise the affected Land Authority Member of such decision; and
 - (iii) with regard to a conflict of interest may take such measures as they deem necessary to safeguard the interests of the Land Authority which may include suspension or restrictions of rights and privileges normally accorded to a Land Authority Member;
- (f) Quorum - where by reason of an exclusion due to conflict of interest the number of Land Authority Members remaining would not constitute a quorum, then the matter under consideration shall be tabled until such time as sufficient number of Land Authority Members are present without conflict of interest to constitute a quorum or the issue can be presented to Chief and Council.
- (g) Appeal - Chief and Council shall establish and designate an Appeal Panel which may hear the issue if:
 - (i) the Land Authority is unable to determine whether or not a conflict of interest exists,
 - (ii) there is no quorum of the Land Authority able to render a decision; or
 - (iii) a Land Authority Member is not satisfied with the determination of the Land Authority;

upon reviewing the issue, the Appeal Panel shall render a decision and their decision shall be final and binding as to the conflict of interest. The Chief and Council, Land Authority and the Land Authority Member will be informed of the Appeal Panel's ruling.

18. Discipline and Suspension of a Land Authority Member

Discipline Measures

18.1 Discipline of a Land Authority Member by the Land Authority, may include the following measures:

- (a) the Chairperson of the Land Authority at the time of the discussions, shall provide a formal reprimand and/or warning to the Land Authority Member which will be recorded in the minutes;
- (b) suspension of the Land Authority Member from the Land Authority;
- (c) suspend the Land Authority Member from an assigned portfolio of the Land Authority;
- (d) suspension or restriction, for a specified period, with specified rights and privileges normally accorded to a Land Authority Member for a period not to exceed six (6) months;
- (e) a forfeiture, reduction or adjustment in honorarium normally payable.

Setting up an Appeal Panel

18.2 The Appeal Panel may discipline or suspend any of the Land Authority Members for cause in the event that the Land Authority Member is not satisfied with the decision of the Land Authority, in accordance with the following procedures:

- (a) a complaint and/or appeal regarding a Land Authority Member may be made in writing to the Chief by any person, with respect to the conduct, actions or statement of a Land Authority Member;
- (b) the Chief shall report to Council and give notice that there is a dispute;
- (c) Council will review the complaint and if it is found that action is required, Council will send the issue to an Appeal Panel;
- (d) the Appeal Panel shall review the complaint, and any supporting evidence or testimony, at a special meeting called for that purpose;
- (e) where such complaint is made, a copy of the complaint and any background material shall be provided to each member of the Appeal Panel;
- (f) the notice of Appeal Panel review shall be given to the Land Authority Member who is the subject of the complaint from the Chief's office and such notice shall specify the date, time and place;

- (g) the Land Authority Member who is the subject of the complaint may attend the meeting to reply to the complaint and any evidence or testimony in support of the complaint, and may put forward supporting evidence or testimony in his favour;
- (h) the Appeal Panel shall then determine whether to discipline or suspend the Land Authority Member who is the subject of the complaint, and shall render a decision and such decision will be forwarded to Chief and Council and the Land Authority;
- (i) the Land Authority Member who is the subject of the complaint shall be notified in writing of the particulars of any discipline or suspension imposed, and such decision shall be final.

Appeal of Suspension

18.3 A Land Authority Member may be suspended for just cause including but not restricted to: "Dereliction of Duty", "Disclosure of Confidential Information", "Acting in a Conflict of Interest", or other activity will be in accordance with the following procedures:

- (a) for a case of "just cause", the Land Authority Member shall receive a notice in writing, of the complaint and a hearing date of the Appeal Panel;
- (b) a hearing will be, in accordance with principles of fairness and natural justice, where it may receive and consider evidence, testimony, documents and materials with respect to the charges;
- (c) at the hearing the Land Authority Member shall be allowed to attend, respond to charges and evidence, and bring evidence or materials forward to his defense;
- (d) after due consideration in the hearing, the Appeal Panel shall vote by way of a secret ballot on the question of the suspension of the Land Authority Member;
- (e) the result of the vote shall be entered into the minutes, and shall be provided to the Land Authority Member by notice in writing and if the vote determines there is just cause, the Land Authority Member shall be deemed to be suspended from their position;
- (f) there shall be no appeal from a decision of the Appeal Panel with regards to the suspension of a Land Authority Member, the decision shall be binding.

Automatic Suspension

18.4 Notwithstanding any other provision in this Land Law, any Land Authority Member charged with an indictable criminal offence involving drugs, sexual abuse or fraud, shall be suspended automatically, until such time as the outstanding charges have been resolved.

19. Termination of a Land Authority Member

Ceased to be Director

19.1 A Land Authority Member shall be deemed to have ceased their position upon:

- (a) death;
- (b) failing to attend three (3) or more consecutive meetings without a valid reason;
- (c) becoming an employee of the Lands Division;
- (d) resignation in writing;
- (e) a Land Authority Member becoming an elected member of Chief or Council;
- (f) a Land Authority Member has moved out of the 50 km radius, pursuant to Section 6.7;
- (g) a Land Authority Member has moved off OCN Lands and there is no longer a majority of Land Authority Member residing on ON Lands, pursuant to Section 6.8; or
- (f) conviction of any indictable criminal offence.

Vacancy

19.2 Upon termination of a Land Authority Member there will be a vacancy, and such vacancy shall be filled pursuant to Section 6.4 of this Land Law.

20. Repealed

21. Duties of the Land Manager

Duties

- 21.1** The duties of the Land Manager, shall be the day to day administration and operations of the Land Authority, as the senior manager of the Land Division and reporting to and receiving direction from the Land Authority. The duties of the Land Manager shall:
- (a) work with the Land Authority to establish and achieve the Land Authority's goals, objectives and priorities;
 - (b) ensure effective, smooth operation of the Land Authority that is in harmony with the vision, mission and philosophy of the *OCN Land Code*;
 - (c) develop an annual operating plan and strategies which will include short and long range goals and objectives for all aspects of the Land Authority;
 - (d) create and document office or administrative policies and procedures, and review administrative policies and procedures from time to time as required and/or recommend ratification of policies and procedures which are currently in place that may affect the Land Authority or Lands staff;
 - (e) prioritize and delegate duties where necessary, so as to ensure effective operation and management of the Land Authority and the reasonable and timely implementation of all of the Land Manager's obligations;
 - (f) attend Land Authority meetings in their entirety and if unable to attend delegate another staff member to attend;
 - (g) report and act as a liason to:
 - (i) Chief and Council and provide information, as requested to Council and OCN Citizens;
 - (ii) senior managers within OCN and attend management meetings; and
 - (iii) Land Authority;
 - (h) supervise and oversee:
 - (i) the development and drafting process of any new or amendments of Land Laws, regulations and policies;
 - (ii) any approved community consultation process outlined in Section 7.6 of the *OCN Land Code* ;

- (iii) presentation of proposed Land Law, regulation and/or policy to the Land Authority for their approval and recommendation to Chief and Council;
- (iv) the presentation for enactment and or ratification of Land Law, regulation and/or policy to Chief and Council;
- (i) monitor and ensure that compliance and implementation of any Land Law, Resolution, policy and/or operating procedures are in compliance;
- (j) prepare the Land Authority's annual operating and capital budgets;
- (j) manage the Land Authority's approved annual operating budgets;
- (k) monitor and report to the Land Authority regarding the operations, activities, programs, services, projects, financial status, and financial activities of the Land Authority;
- (l) be responsible for signing "Application for Registration Form" to be sent to Registry;
- (m) execute documents delegated by "*Land Law for Governing the Use and Occupancy of OCN Lands*" on behalf of OCN;
- (n) upon a traditional interest claim, the Land Manager may assist the OCN Citizens in the preparation and filing of a written claim;
- (o) attend meetings with entities and departments of OCN to ensure the entities and departments are educated and are in compliance with *OCN Land Code* and Land Laws;
- (p) ensure compliance with agreements or arrangements:
 - (i) between outside third parties and the Land Authority;
 - (ii) by participating in negotiations between external agencies on outstanding issues, as outlined in the *Individual Transfer Agreement* annexes; and
 - (iii) by monitoring transfer of payments from Canada and any agreements entered into relating to OCN Lands;
- (q) assist in hiring of Lands staff, in accordance with the OCN Land Authority Personnel Policy;

- (r) supervise and evaluate Lands staff, and where appropriate, to undertake disciplinary actions with respect to all Lands staff, in accordance with Land Authority and OCN personnel policies and in accordance with applicable labour legislation or regulations;
- (s) establish and maintain close liaison with external organizations related to the operation of the Land Authority as may be required or desirable from time to time;
- (t) promote community relations, including community meetings, regular contacts with OCN Citizens, with radio and print media, via press releases, press kits, phone contacts, contributions or promotional activities to develop and maintain a high public profile and positive image for the Land Authority, in consultation with the Land Authority;
- (u) enter into negotiations and contracts with outside third parties, in accordance with terms of policies or budgets, or as approved by Council, or otherwise in accordance with the *OCN Land Code* to facilitate promotion, maintenance, operation or administration of the Land Authority;
- (v) attend meetings, as may be required from time to time, with the Land Advisory Board, the National Lands Association and the Manitoba Uske as a technical representative from OCN Lands; and
- (w) perform other related duties assigned by the Land Authority or Chief and Council as may from time to time direct.

22. Land Division Staff

Positions

22.1 From time to time, the Land Authority may create other employment positions, as required. Where such additional employment positions are created, the Land Authority shall adopt terms of reference for the position, which shall include designating supervising positions, reporting requirements, and job descriptions. The position will be staffed as per OCN's Personnel Policy or until the Land Authority enacts their own Personnel Policy.

Precedence

22.2 Where there is a conflict between duties or responsibilities provided for in this or any Land Law or Resolution, this Land Law shall take precedence

23. Protection of Land Authority Members

Liability Protection

23.1 No Land Authority Members shall be liable for:

- (a) the acts, omissions or negligences of the Land Authority Members in the performance of their obligations and duties as Land Authority Members which occurred before they became a Land Authority Member or which occurred after they ceased to be a Land Authority Member or during service;
- (b) joining in any receipt or act for conformity;
- (c) any loss, damage or expense happening to the Land Authority through the insufficiency or deficiency to title to any property acquired, administered or registered with the Land Authority ;
- (d) the insufficiency or deficiency of any security upon which any of the monies of the Land Authority are placed or invested;
- (e) any loss or damage arising from the bankruptcy, insolvency or tortuous act of any person, firm or corporation, including any firm, person or corporation with which any monies, securities or effects shall be deposited or lodged;
- (f) any loss, conversion, misapplication or misappropriation of or any damage resulting from any dealings with any monies, securities or other assets belonging to the Land Authority;
- (g) any other loss, damage or misfortune whatsoever; and

unless the above shall happen by their failure to exercise the powers and to discharge the duties of their office of trust honestly, in good faith and in the best interests of the Land Authority, and to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Indemnified

23.2 Subject to the provisions of this Land Law and within the limits of the coverage of insurance referred to herein, every Land Authority Member, their heirs, executors, administrators, other legal personal representatives, and persons acting on the instruction of the Land Authority shall be indemnified by the Land Authority for:

- (a) any liabilities, costs, charges and expenses that they sustain or incur in respect of any action, suit or proceeding that is proposed or commenced against them in respect of the bona fide execution of the duties of their office; and

- (b) all other charges and expenses which they sustain or incur in respect of the affairs of the Land Authority, as approved by the Land Authority;

unless the above shall happen by their failure to exercise the powers and to discharge the duties of their office of trust honestly, in good faith and in the best interests of the Land Authority, and to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

24. Insurance

Purchase of Insurance

24.1 Opaskwayak Cree Nation may purchase insurance, which may include primary coverage for the Land Authority, Members, Land Manager, Lands staff, facilities and equipment:

- (a) the Land Authority shall purchase insurance for motor vehicles owned by the Land Authority, or shall require insurance for motor vehicles owned by third parties, from the Manitoba Public Insurance Corporation and said insurance shall provide for not less than One Million (\$1,000,000.00) Dollars coverage per incident for personal injuries, death and dismemberment; and
- (b) the Land Authority may require professionals and contractors to maintain adequate insurance coverage through their professional or other associations.

25. Application

Shall Govern

25.1 This Land Law shall govern and apply to the operation and administration of the Land Authority and the Land Authority Members, Land Manager, officers, Lands staff, programs, services, operations and properties.

26. Incorporation by Reference

Inconsistent

26.1 Insofar as they are not consistent with this Land Law; policies or procedures developed, implemented or enacted pursuant to this Land Law, or any other Land Laws, Resolutions, regulations or policies of the Opaskwayak Cree Nation, relating or applicable to the operation, maintenance, administration of, or delivery of programs and services by the Land Authority, are hereby incorporated as part of this Land Law and may be enforced as part of this Land Law.

27. Severability

Jurisdiction

27.1 In the event that a court of competent jurisdiction or other body with jurisdiction determines that any provision herein is unlawful or beyond the jurisdiction of the Council and/or the Government of Canada, said provision shall be severable from this Land Law and the remainder of the terms of this Land Law or any other Land Laws mentioned in the preamble and any regulations, policies and procedures thereunder or future Land Laws, shall remain in full force and effect.

28. Amendments and Enactments

Requirements

28.1 A recommendation from the Land Authority or Chief and Council, shall be required, before an amendment can be made to this Land Law. Chief and Council may upon consultation through public meetings with the OCN Citizens, amend or enact further Land Laws within the jurisdiction of Council.

Resolution

28.2 If any section of this Land Law requires amendment, that amendment will be made through a Resolution which stipulates the section of this Land Law that is being amended. A notice shall be provided to the community through the local newsletter "Natotawin", or other means that Chief and Council deem appropriate.

DONE AND PASSED by Board of Directors of the the Interim Land Authority at a meeting held on the 7th day of March, A.D. 2003.

APPROVED AND ENACTED by Chief and Council of Opaskwayak Cree Nation assembled on the 10th day of March, A.D. 2003.

AMENDMENTS AND REVISION OF THIS LAND LAW FOR ESTABLISHING A LAND AUTHORITY has been approved for recommendation to Chief and Council for approval for implementation on this 2nd day of May, 2012.

AMENDMENTS AND REVISION OF THIS LAND LAW FOR ESTABLISHING A LAND AUTHORITY has been approved for implementation by Chief and Council of Opaskwayak Cree Nation assembeled on the _____ day of _____, A.D. 2012.