

# **Opaskwayak Cree Nation Land Law**

## **Land Law For Governing the Use and Occupancy of OCN Lands**

Enacted this 11<sup>th</sup> day of August, 2003

Land Law 2003/003  
Amendment #1 – May 8, 2006  
Amendment #2 - \_\_\_\_\_

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# LAND LAW

## For Governing the Use and Occupancy of OCN Lands

### PREAMBLE

**WHEREAS** the Opaskwayak Cree Nation (“OCN”) entered into solemn Treaty arrangement with Her Majesty’s Government of the Dominion of Canada by adherence to *Treaty 5*;

**AND WHEREAS** the Opaskwayak Cree Nation did not through said Treaty give up their authority to be 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 the provisions of land management from the *Indian Act* which sections are outlined in Section 38 of the *First Nation Land Management Act*;

**AND WHEREAS** by withdrawing from those provisions of the *Indian Act*, Opaskwayak Cree Nation through their Land Code has the authority and jurisdiction to exercise control and management over their lands and resources for the use and benefit of its citizens, rather than having their lands managed by Canada;

**AND WHEREAS** the title to OCN Lands listed in the *OCN Land Code* and the *Individual Transfer Agreement* between OCN and Canada will remain with Canada and will continue to be set apart for the use and benefit of OCN for which the land has been set apart;

**AND WHEREAS** the Opaskwayak Cree Nation, through ratification of their own *Land Code* on June 20, 2002, for purpose of setting out the principles, guidelines and processes by which OCN 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 citizens of Opaskwayak Cree Nation, as amended from time to time;

**AND WHEREAS** pursuant to Section 6.1 of the *Opaskwayak Cree Nation Land Code*, Land Laws may be enacted in relation to the development, conservation, protection, management and occupancy of OCN Lands;

**AND WHEREAS** the Chief and Council have deemed it necessary to enact a “Land Law for Governing the Use and Occupancy of OCN Lands” relating to the administration of Leases, Permits, **Public Interest**, Social Use and Licenses;

**AND WHEREAS** nothing in this Land Law shall alter, diminish, abrogate, derogate or breach the Treaty and/or aboriginal rights of OCN or its citizens;

**AND WHEREAS** the Land Authority ~~Board of Directors~~ has approved this Land Law for recommendation for enactment by the Chief and Council on June 24, 2003;

**AND WHEREAS** the Chief and Council enacted “OCN Land Law for Governing the Use and Occupancy of OCN Lands” on August 13, 2003;

**AND WHEREAS** the Chief and Council amended the “OCN Land Law for Governing the Use and Occupancy of OCN Lands” on May 8, 2006;

**AND WHEREAS** pursuant to Section 17.1 a.b.and d. of the “OCN Land Law for Governing the Use and Occupancy of OCN Lands”, states:

This Land Law may be amended by Chief and Council in the following manner:

- a. a recommendation from the Land Authority, supporting or requesting the amendment;
- b. where the proposed amendment is substantial in nature, it may be referred to a community meeting for input; **and**
- c. a written Resolution of Chief and Council amending this Land Law shall be filed with the Land Authority Registry.

**AND WHEREAS** the Land Authority has recommended the amendment to this Land Law ~~to for recommendation for~~ Chief and Council for approval and implementation.

**THEREFORE OPASKWAYAK CREE NATION CHIEF AND COUNCIL HEREBY ENACTS THE AMENDMENT TO “LAND LAW FOR USE AND OCCUPANCY OF OCN LANDS”** at a duly convened meeting held on \_\_\_\_ day of \_\_\_\_\_, 2016 , **AND THAT** Opaskwayak Cree Nation shall administer and manage Opaskwayak Cree Nation Lands in accordance with this Land Law.

## 1. NAME

Title of This Land Law

- 1.1 This Land Law shall hereinafter be known as the "Land Law for Governing the Use and Occupancy of OCN Lands", for short "Governing Land Law".

## 2. INTERPRETATIONS

Definitions

- 2.1 For the interpretation of this Land Law, the terms set out herein shall have the following meanings:

"Absolute Majority" means **fifty percent plus one** (50% + 1) of the whole of Chief and Council;

"Agreement" means any written arrangement made between two (2) parties and agreed upon between the parties;

~~"Resolution"~~ or "Band Council Resolution" means a written resolution signed by Chief and Council giving consent and approval on a particular issue requiring approval from Chief and Council.

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

"Community Approval" and/or "Community Approval Meeting" means a community meeting of eligible voters held for the purpose of voting on a lands transaction, as set out in the *OCN Land Code*;

"Community Meeting" means a meeting of Opaskwayak Cree Nation (OCN) Citizens;

"First Nation Land Registry System" means the registry system maintained by the Department of Indian and Northern Development pursuant to the *First Nation Land Management Act* Section 25;

"Interest" means any, interest, rights or estate of any nature in or to the land, including a lease, easement, right of way, servitude, or profit á prendre, but does not include title to the land in accordance with Section 1.1 "Interest" of the *Framework Agreement on First Nation Land Management*, dated February 12, 1996;

"Land Authority" means the executive body that will facilitate present and future administration, management and land planning, and which is established by Land Law #2003/002, as amended from time to time;

"Land Law" means any Land Law enacted pursuant to the *OCN Land Code*, as amended from time to time;

"Land Manager" means the person, **or designate, responsible designated** to administer and carry out duties assigned under the Land Authority and this Land Law;

**~~"Land Use Plan Policy" means the policy adopted by Council in 1980, and amendment in 1991, which OCN uses as a guide for allocating use of land;~~**

"Lease" or "Leasehold Interest" means the leasehold interest in OCN Lands, with the terms set out in writing which grants exclusive use during the term of the Lease for certain considerations, for a particular area, either pre-existing or issued by the Land Authority or Council which may include but not limited to residential, commercial, agricultural, recreational, mobile, and OCN public interest, purposes;

"License" means written permission to use, enter into or occupy OCN Lands other than an Interest;

"OCN Citizen" means a person whose name appears on Opaskwayak Cree Nation membership list or is entitled to appear and shall have the same meaning as OCN members as defined in the *OCN Land Code*;

"OCN" or "Opaskwayak Cree Nation" means the collective body of First Nation members governed by a Chief and Council exercising collective and individual rights as Opaskwayak Cree Nation, including inherent rights to self-government, and as an entity, signatory to Treaty #5 and recognized as an Indian Band by the Department of Indian and Northern Affairs pursuant to the provisions of the *Indian Act*;

"*OCN Land Code*" means the Land Code ratified and enacted by the eligible registered voting OCN Citizens of Opaskwayak Cree Nation, as amended from time to time;

"OCN Land Registry" means the registry system in which OCN Land Laws, regulations, policies and documentation related to an Interest or License for the use of OCN Land will be maintained by Opaskwayak Cree Nation;

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

“Permit” means an interest granted to use, remove, occupy, or enter upon, which terms are set out in writing, and does not confer exclusive use for a particular area;

“Pre-Existing Interest” means any leases, permits, or interests granted or approved by Canada prior to the enactment and coming into force of the *OCN Land Code*;

“Ratification Vote” means a vote as set out in the *OCN Land Code*;

“Traditional Interest” or “Custom Allocation” means an unregistered interest in land that existed prior to August 1, 2002 and that is recognized by OCN as having an interest in the particular parcel of Land.

#### 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 the singular and the masculine are used throughout this Land Law, the same shall be construed as meaning the plural, or the feminine or neuter where the context or the parties hereto so require.

### 3. AUTHORITY

#### Fair and Equitable

- 3.1 The Chief and Council and the Land Authority are committed to treating all Interest **and License** holders fairly and equitably when granting an Interest for use of OCN Lands, while at the same time, always taking into consideration the preservation and protection of OCN Lands.

Authority Criteria

- 3.2 This Land Law will set out and outline the guidelines and criteria that shall be adhered to by Chief and Council, the Land Authority, OCN Citizens, Interest holders, **License holders**, any and all users, occupiers or potential Interest holders **and License holders**.

Authority to Administer

- 3.3 In accordance with and subject to this Land Law, the Land Authority as delegates of Chief and Council, through Land Law 2003/002, and its amendment from time to time, shall have general authority and administration over all Interests and Licenses relating to OCN Lands issued pursuant to the *OCN Land Code*.

Exercise Authority

- 3.4 The Land Authority, as delegated by Council, shall have the authority to exercise rights and privileges of the lessor or permittor under any lease or permit, as conferred by any collateral agreement, and any implicit in, or arising out of each transaction relating to land.

Term of jurisdiction

- 3.5 The term over which the Land Authority shall have jurisdiction to exercise its rights and privileges under this Land Law shall be deemed to commence August 1, 2002, and shall continue until such time as the OCN Chief and Council rescinds this Land Law.

Greater Certainty

- 3.6 For greater certainty to Section 3.6 of this Land Law, gives authority to the Land Authority, ~~prior to the enactment of this Land Law~~ may:
- a. backdate agreements for land use to August 1, 2002 in order to legalize the land use; **or**
  - ~~b. ratify any land allocations made by the Interim Land Authority and have the authority to execute such agreements; or~~
  - ~~b.c.~~ grant any new land allocations, in principle, and ratify those allocation upon enactment of ~~these Regulations~~ this Land Law.



## 4. PROCESSES

### Harmony

- 4.1 The Chief and Council along with the Land Authority and its staff shall at all times while developing regulations, policies and procedures under this Land Law maintain balance and harmony with respect to traditions, social needs, economic and other ventures in relation to land.

### Future Generations

- 4.2 The governance, occupancy, administration and monitoring of OCN Lands will take into consideration the responsibility of keeping the land safe for future generations and at the same time implement the values and vision of OCN Citizens that the land is held collectively by its Citizens and no one person shall have ultimate use of the land.

### Terms and Conditions

- 4.3 Documents for land allocations shall be in writing specifying the terms and conditions for Interest or License holders to ensure the protection of OCN Lands, and such documents shall be registered in the OCN Land Registry and the First Nation Land Registry in accordance with Sections 28.1 to 28.5 of the *OCN Land Code*.

## 5. INTERESTS AND LICENSES

### Type of Interest or License

- 5.1 Chief and Council and/or the Land Authority has the authority pursuant to the *OCN Land Code*, to grant an Interest or License in OCN Lands. The types of Interest and Licenses that will be recognized shall include:
- a. Traditional or Custom Allocation - shall be defined as an unregistered interest in land, held by OCN Citizen(s), that existed prior to August 1, 2002. This interest remains with the existing occupant and shall continue until the original occupant has moved; is no longer an OCN Citizen; or becomes deceased. Thereafter, any potential occupant must apply for the use of that land, within a reasonable time, in order to have their interest in the land recognized as a legal interest for that particular allocation;
  - b. Pre-Existing Allocation - are current valid leases or permits registered in the Indian Lands Registry System as of July 31, 2002; this interest shall remain in place until it is cancelled, expired, or relinquished;

- c. Newly Granted Allocation - are Leases, Permits or Licenses granted and documented by entering into an agreement after August 1, 2002 and will remain in effect until the term expires, is assigned to another party, is relinquished, or cancelled.

New Granted Allocation

- 5.2 Any newly granted allocations must be a registered instrument in order for OCN Citizens and/or non-Citizens to have their Interest in the Land recognized and to ensure that records are documented and filed for future use.

Enforcement

- 5.3 Pursuant to Section 28.2 of the *OCN Land Code*, an Interest or License created or granted after the *OCN Land Code* takes effect will not be enforceable unless it is registered in the OCN Land Registry.

Compliance

- 5.4 All Interests and Licenses will be administered, monitored and enforced by the Land Authority and its staff for compliance to the terms and conditions which Council and/or Land Authority has set. If terms and conditions are not adhere to upon notice being given, the Land Authority may make recommendation to Chief and Council to:
  - a. depending on the non-conformity, the Interest or License holder may be required to pay any all costs incurred or incurring to abate the non-conformity; and/or
  - b. ~~to~~ cancel allocation of Interest or License due to non-conformity.

Right to Remedy

- 5.5 The Land Authority shall have the right to remedy any defaults that may occur within a Lease, Permit, License or agreement according to its terms and conditions.

Notice

- 5.6 Notices shall be issued by the Land Authority or staff regarding any and all non-compliance issues and the Interest or License holder shall be given a time frame to abate the non-compliance issue.

**Policy Regulations**

- 5.7 **Policy Regulations** shall be established on the processes and procedures that Land Authority and its staff will utilize to ensure that steps are followed prior to **making a recommendation to of terminate termination or cancel cancellation of an Interest or License holder.**

**6. GRANTING OF INTERESTS AND LICENSES**

Land Law for Land Use and  
Community Plan including  
Natural Resources

- 6.1 In granting use of OCN Lands, any such grant shall be consistent with the **Land Use Plan Policy** "Land Law for Land Use and Community Plan including Natural Resources" and "Opaskwayak Cree Nation Zoning Regulation" which were both enacted on May 14, 2009. **~~as approved by Chief and Council from time to time, until such time as a Land Law for Land Use Plan and Community Plan including natural resources are enacted.~~**

Application

- 6.2 All applications for use of OCN Lands, along with relevant documents, shall be submitted to the Land Authority for approval or denial, in accordance with "**OCN Application for Land Use Regulation**" **~~Regulations for Application of Land Use~~** adopted and approved by Chief and Council on April 11, 2011.

Approval by Motion

- 6.3 All granting of Interests or Licenses shall be by motion of the Land Authority at a duly convened meeting.

Urgent Matters

- 6.4 For any urgent matter that arises and if the Land Authority cannot meet at a special meeting due to prior commitments and time is of the essence, approval can be granted by Chief and Council by **Band Council Resolution** at a duly convened meeting and the Land Authority shall ratify Council's decision at their next Land Authority meeting.

Execution of Granting  
Land Transactions

6.5 The **approved** land transaction agreements shall be executed by the applicant along with OCN Land Authority signing designates ~~as~~ determine as follows for land transactions: ~~Chief and Council shall by Resolution appoint signing authorities for Lands transaction agreements as follows:~~

- a. **Permits or Licenses to non-OCN Citizens or OCN Citizens requesting a permission for land commercial use, and which does not give exclusive use, but allows access and limited use of less than six (6) months or less, shall be approved and executed by the Land Manager;**
- b. **adjustments due to a Rent Review on a Leased area shall be approved by motion from Land Authority and Rent Notice to be signed by the Land Manager on behalf of the Land Authority;**
- c. **Leases, Permits or Licenses, over six (6) months and up to the maximum of five (5) years, for which standard form documents have been approved by Council, shall:**
  - i. **be executed by the Land Authority signing officers and a Band Council Resolution from Council will not be required; or**
  - ii. **excepting those Leases which a lending institution or organization makes a request to have Council's approval, then a Band Council Resolution from Council will be required;**
- d. **Leases, Permits or Licenses over five (5) years and up to a maximum of thirty (30) years, for which standard form documents have been approved by Council, shall be executed by the Land Authority signing officers and a Band Council Resolution approving the transactions is required by Chief and Council;**
- e. **Leases, Permits or Licenses over thirty (30) years and up to a maximum of forty (40) years shall require that a quorum of Council execute the transactions and the Land Authority shall sign the consent form;**
- f. **all Easement agreements shall be executed by an absolute majority of Council and shall require a consent from Land Authority signing officers;**

- g. any Resource permits such as timber, gravel or minerals shall require a **Band Council Resolution** to be signed by an absolute majority of Council consenting to the granting of a Resource permit and Land Authority signing officers shall execute the documents;
- h. any sub-leases, assignments, mortgages, amendments or addendums shall require consent by the Land Authority;
- i. any transaction over forty (40) years shall require Community Approval at a Community Meeting, a report of the results shall be documented and if the community approves, then Council shall execute documents on behalf of the OCN community and the Land Authority shall sign a consent form;
- j. any additional lands to be included as OCN Land and managed under the *OCN Land Code*, a Community Approval at a Community Meeting shall be required and a Resolution from Council certifying community acceptance of a satisfactory environmental site inspection; or
- k. any land transactions such as land exchanges and expropriations shall require a **Ratification Vote and the that report of the results of the a Ratification Vote** shall accompany any documentation that will be sent to registry and Council shall formalize the results of the ratification vote by signing a **Band Council Resolution**.

Execution of Terminated  
Land Transactions

- 16.6 The termination of land transaction agreements shall be executed by the OCN Land Authority signing designates in the following manner:
- a. **Relinquishment of an Occupancy Permits, Permission to Enter Permit, Public Interest Permit, and Natural Resources for removal Deadfall, where the term is less than six (6) months and the Land Manager has signed the document, acting on behalf of OCN Chief and Council:**
    - i. **where there is a termination, will require** a letter of notification to the permittees or licensees signed by the Land Manager **will be required;** and
    - ii. shall require consent from Land Authority signing officers;
  - b. Relinquishment of Lease or Permit holders Interest which Lease or Permit term is thirty (30) years or under shall require the Land Authority signing officers signature **and does not required a Band Council Resolution from Chief and Council;**

- c. Relinquishment of Lease or Permit holders Interest which Lease or Permit term is over thirty (30) years shall require **Band Council** Resolution (BCR) approved **by approval from** an Absolute Majority of Chief and Council and shall require a consent from Land Authority signing officers;
- d. Any Cancellation of Lease, Permit, License, or Easement holders interest shall require approval **by way of Band Council** Resolution of an Absolute Majority of Council and a consent from Land Authority signing officers.

**Revocation of Land Allocation**

**6.7 Where an applicant has been approved to enter into a Lease, Permit or License and the applicant has not paid or signed their documents, to legalize their use of OCN Lands and pursuant to the "OCN Application for Use of Land Regulation", Section 8.2 which states:**

**"In the event that the applicant does not sign the documents and there is no response from the applicant within a three (3) month period from the date of notification, the approval of the allocation may be reviewed by the Land Authority for possible revocation."**

**The applicant may have their pending Lease, Permit or License allocation revoked if:**

- a. **if the Lands Division has contacted the applicant and** there is no development on the land **and** the land transaction document has not been signed after three (3) months of **the applicants** notification, the Land Authority shall make a motion to revoke the allocation and the Land Manager shall notify applicant in writing; or
- b. there is development and **the** applicant is residing on the land, **then** the land allocation will be considered **null and void, and any rights which a Lease, Permit or License would have granted to a Lessee, Permittee, Licensees will not be recognized as a legal occupation of on OCN Lands.**

**No Granting**

**6.8 No Interest or License shall be granted where a previous Interest or License exists by a Traditional/Custom allocation or Pre-Existing allocation.**

Prior Interest

6.9 Where a Traditional/Custom or Pre-Existing Interest allocation is discovered subsequent to the granting of a new Interest or License, then the new Interest or License shall be void ab initio upon proof of the prior allocation.

Liability

6.10 The Land Authority shall not be liable for any errors or omissions with respect to the granting or voiding of Interests or Licenses including circumstances arising under Section 6.8.

## 7. PRIORITY OF CONSIDERATION OF INTERESTS AND LICENSES

Priority

7.1 In granting of Interests or Licenses on OCN Lands the Land Authority and Council will be guided by priorities in the order as follows:

- a. OCN Citizens building their own units for residential purposes;
- b. OCN entities, corporations or bodies who will be building on behalf of OCN Citizens for residential purposes;
- c. OCN's offices, schools, administration facilities, parks, roads, ditches, arenas, infrastructure, recreational and OCN general public or social purposes;
- d. OCN corporation entities for economic development;
- e. recreational purposes for clubs of OCN;
- f. businesses or organizations owned or operated by OCN Citizens;
- g. non-OCN Citizens who are guardian and or in care of minor children whom are OCN Citizens for residential purposes;
- h. utilities that provides a service to OCN Citizens as a whole such as hydro, telephone, cable, etc.;
- i. businesses or organizations owned or operated by OCN Citizens in partnership with non-OCN Citizens;
- j. non-OCN Citizen persons and businesses;

- ~~j.k.~~ utilities that provide services other than to OCN Citizens; and
- ~~k.l.~~ other organizations or bodies that are not referenced above.

May Prohibit

- 7.2 The Land Authority may prohibit the awarding, granting, transferring or assigning of specific rights or Interest in OCN Land to certain categories set out in this Section if:
- a. it is not in the best interest of OCN;
  - b. it is not consistent with the Land Law for Land Use and Community Plan including Natural Resources; **Plan**
  - c. it is not consistent with the Opaskwayak Cree Nation Zoning Regulation;
  - d. when enacted, Opaskwayak Cree Nation Environmental Law; or
  - ~~e.e.~~ the use does not conform to the standard regarding environmental protection.

Formally Approved

- 7.3 All such prohibitions or specific rights shall be formally approved by the Land Authority and form part of the Lease, Permit, License or Agreement as outlined in the terms and conditions in that agreement.

## 8. ADMINISTRATION AND ALLOCATION

Ensure Compliance

- 8.1 The Land Authority and its staff are responsible for the administration, monitoring and management OCN Lands to ensure that compliance to terms and conditions of Interests and Licenses are met.

Right to Collect

- 8.2 The Land Authority shall have the right to collect and receive monies due as payments, fees, reimbursements, rentals, under a Lease, Permit, License or Agreement and, subject to § Section 8.4, shall remit same to OCN. †



Receive Monies

- 8.3 Opaskwayak Cree Nation shall receive any monies remitted under Section 8.2, and deposit those monies in OCN's accounts receivables. OCN will then make journal entries crediting those monies to the Land budget and the Land Authority shall have the right to expend monies in accordance with approved budgets.

Land Authority Accounts

- 8.4 The Land Authority may upon approval of Chief and Council, maintain a separate bank account for deposit of monies, payments on account, and to expend monies in respect to the rights and powers under the Lease, ~~or~~ Permit, ~~or~~ Licenses ~~or~~ as otherwise required or allowed by Land Law.

Obligation to Pay

- 8.5 The lessee, ~~and~~ permittee, and licensees shall be obligated to and shall owe all rents, fees, and/or duties to the Land Authority lessor, permittor, or licensor, under the Lease, Permit or License.

Liable to Third Parties

- 8.6 The Land Authority shall not be liable to any third party for any failure or delay in exercising any discretion, authority or power granted to the lessor, permittor or licensor, under the Lease, Permit or License, but shall only be liable for unreasonable delay or failure to fulfill its obligations.

Due Diligence

- 8.7 The Land Authority shall be authorized to take all action and do all things reasonable and necessary ancillary to its authority under this Land Law, notwithstanding that there may be no specific authority given herein.

## 9. TRANSACTIONS

Types of Transactions

- 9.1 The Land Authority and Council shall recognize the following transactions for which agreements can be entered into: **for a term not exceeding 39 years:**

- a. Residential Lease including but not limited to single dwelling units, condominium, cottage, townhouses and duplexes for personal use and not as a business;

- b. Commercial Mobile Lease including but not limited to single dwelling units within a mobile home park, mobile park headlease with sub-leases;
- c. Commercial Lease including but not limited to any business enterprise that require a land base other than small business within a home dwelling; industrial; leisure; retail; recreational and residential for renting purposes;
- d. Agricultural Leases and/or Permits including but not limited to grain, crops, wild rice; community farm, pastures, livestock; poultry; or mixed;
- e. Removal of Resource Permits including but not limited to sand and gravel; timber, other minerals, stones, clay or soil, hay, saplings; shrubs, underbrush, deadfall, cordwood, peat or non-timber resources;
- f. Utility Permits including but not limited to electrical, cable, water lines, sewer lines, lagoon, telephone, irrigation, infrastructure;
- g. Easement, Agreement and/or Permit including but not limited to encumbrances, roads, ditches, railways, waterline, pipeline, dykes, and walking trails;
- ~~g~~-h. Right-of-Way Permit including but not limited to roads, dykes, trails;
- ~~h~~.i. Occupancy Permits including but not limited to short term residential use, cabins, short term cottage and year to year, bill board, small agricultural; gardening; gathering, recreational and developing;
- ~~h~~.j. Permission to Enter Permit including but not limited to agents working on behalf of OCN to complete work; to hunt; trap; hold special events; or to conduct business;
- ~~j~~-k. OCN Public Interest Permits including but not limited to parks, schools, churches, cemeteries, camp grounds, water plant, sewage plant, traditional areas, burial grounds, land fill, land farms, fire/emergency/ public safety buildings, public works building and yard; recreational sites; and general use areas used in common for OCN Citizens;
- ~~k~~.l. Licenses may be entered into, subject to regulations being adopted, for small businesses operating in or from OCN Citizens' homes; taxi or transportation, to install water and sewer outside main service areas; or if applicable, professional contractors; and

- l.m. any other transactions which may not be listed under a-k which the Council has deemed to be an Interest or a License or land transaction.

## 10. REGISTRATION

### Purpose

- 10.1 The purpose and intent of registering and documenting the Interest and License on OCN Land is to recognize through a registry system that:
  - a. OCN Citizens and other Interest Holders have the right to use, enter upon, or occupy a particular parcel of land;
  - b. assurance is given to Interest holders or lending institutions that a Leaseholder's interest is secure as long as an agreement is in place whether it is a Lease, Permit, or License; and
  - c. it does not diminish or interfere with an Interest holders' rights for peaceably and enjoyable rights to possess and occupy a parcel of OCN Land.

### Informal Process

- 10.2 All transactions entered into relating to Lands shall be registered internally through an informal process until such time a Land Law for Establishing and Maintaining an OCN Land Registry is enacted by Council.

### Registry System

- 10.3 The Land Authority shall register transactions with the First Nation Lands Registry System in accordance with the *OCN Land Code* Section 29.

### Requirements

- 10.4 Three (3) ~~Four (4)~~ original documents are required to be executed by the parties. The distribution of the documents is as follows:
  - a. Interest/License holder;
  - b. OCN Lands ~~Department~~ Division files; and
  - ~~c. OCN Land Registry. ; and~~
  - ~~d. First Nation Land Registry System.~~

Consent

10.5 No assignments, sub-leases, mortgages, or related documents under the direct lease shall be honored unless consent is received by the Land Authority, which consent will not be arbitrarily withheld, and is registered in the Registry Systems.

Application of Consent

10.6 It is the responsibility of the Interest or License holder to make application for consent and registration of any and all documents pertaining to the Direct Lease and a true copy of the documents shall be submitted to the Land Authority for registration.

## 11. DOCUMENTATION

Purpose

11.1 The granting of an Interest or License on OCN Land will be documented to ensure that OCN retains the right to set out the basic requirements, terms and conditions of a particular Interest or License which will include the use, time period and set standards for the protection and preservation of OCN Lands now and for future generations.

Criteria

11.2 OCN through enactment of Land Laws and adoption of regulations, may entering into agreements with users and occupiers of the OCN Lands; shall set the criteria for compliance, monitoring and enforcement of terms and conditions through these regulation to enhance the agreements and OCN shall have the ability to enforce the terms and conditions, either through the court system or OCN's dispute mechanisms to address compliance issues.

## 12. REGULATIONS

May Make Regulations

12.1 The Land Authority may make regulations under this Land Law to further enhance this Section of this Land Law.

Interim Use

12.2 In the interim the Land Authority shall utilize processes or policies which have been approved by Chief and Council prior to the *OCN Land Code* coming into effect for the management of OCN Lands. These processes or policy will remain in effect until such time as regulations are made under this Land Law and are adopted by Chief and Council. Some of these interim processes or policies include:

- ~~a. Application for Use of Reserve Land Procedures;~~
- ~~b. Policy and Procedures for Lease Documents;~~
- ~~e.a.~~ Financial Policy for Collection of Lease Accounts;
- ~~d.b.~~ Agricultural Land Use Policy - Common Band Land; and
- ~~e.c.~~ Commercial Land Use Policy. ~~;~~ and
- ~~f. Permission to Locate a sign on Reserve.~~

Notice

12.3 In making Regulations under this Land Law, upon the Land Authority discretion, may give notice requesting input from OCN Citizens through one (1) or more of the following options:

- a. posting of notice in three (3) or more conspicuous places within OCN;
- b. announcement on the radio;
- c. **publish in local newspapers such as Natotawin and/or Opasquia Times, OCN web site, a summary and/or draft Regulations requesting OCN Citizens to provide their input by submitting their comments** ~~make available with comments to be submitted~~ to the Lands Department Division by a specific date; ~~or~~
- d. **hold informational booths where a summary and/or draft Regulations will be made available for OCN Citizens to provided their comments;** or
- e. community meetings may be called.

Criteria Required

12.4 Regulations relating to criteria and approval of the Land Authority and Chief and Council for adoption under this Land Law will be required for the following:

- ~~a. — Pre-existing Interest;~~
- ~~b. — Applications;~~
- ~~c. — Sub-leasing;~~
- a. Commercial Use Regulation;
- ~~d.b.~~ Defaults and Consequences, including collection, bankruptcy, cancellation, eviction or seizure;
- ~~e. — Rents, Fees, Rates, Assessments, and Duties, including for non-citizens and OCN Citizens;~~
- ~~f.c.~~ Standards for compliance, monitoring and enforcement;
- ~~g. — Assignments;~~
- ~~h.d.~~ Mortgages;
- ~~i. — Relinquishments;~~
- ~~j.e~~ Derelict Vehicles;
- ~~k.f.~~ Trespassing;
- ~~l. — Abandoned and Condemned Buildings;~~
- ~~m. — Double Lot Users and/or Larger Land Allocation;~~
- ~~n.g.~~ Interim Environmental Assessment Screening; and
- ~~o. — Interim Land Use Plans; and~~
- ~~p.h.~~ any other regulations that Chief and Council and Land Authority deems necessary in relations to Land administration and management.

Policies and Procedures

- 12.5 For each regulation adopted the Land Authority and/or Chief and Council may from time to time, approve and adopt policies and procedures to use as guidelines for the daily, weekly, monthly and/or annual operations as may be required for the allocations, management and administration of Interests and Licenses under this Land Law and any regulations. Policy that may be required are as follows:
- a. Use of Land for Cabins (Traditional Use for Natural Resource purposes such as hunting, trapping and fishing);
  - b. Pre-Existing Interest;
  - c. Sub-Leasing;
  - d. Utility;
  - e. Traditional/Cultural Allocation – Elder Panel Processes;
  - f. Assignments;
  - g. Abandoned and Condemned Buildings; **and**
  - h. **and any** other policy that Chief and Council and the Land Authority deems necessary in relations to Lands.

Copies of Regulations

- 12.6 A true copy of all regulations, policies and procedures shall be maintained at the Council Chambers, the Lands Division **Department** and registered in the OCN Land Registry System.

Notice to be Given

- 12.7 All Interest or License holders shall be given notice of any approved and adopted regulations under this Land Law and if the Interest holder requests a copy of any of the regulations they can obtain a copy at a reasonable fee approved by the Land Authority or they can view the regulations by attending the Lands Division **Department** office.

Pre-Existing Rights

- 12.8 Any rights under a Pre-Existing Lease or Permit, shall not be interfered with or diminished upon Regulations being adopted and enforced.

Adopted Regulations

- 12.9 Regulation adopted and approved for implementation by Chief and Council under this Land Law are:
- a. OCN Land Authority Regulation for the Determination of Rents, Fees, Rates, Assessment and Duties for Residential Use and Occupancy, July 7, 2006;
  - b. OCN Land Authority Application for Land Use Regulation, April 1, 2011; and
  - c. OCN Land Authority Billboard Regulation, December 1, 2014.

Adopted Policies

- 12.10 Policy adopted and approved for implementation by Chief and Council under this Land Law and/or Regulation are:
- a. OCN Policy and Procedures for Adding Lands as OCN Reserve and Under the OCN Land Code, July 5, 2005;
  - b. OCN Policy and Procedures for Request to Land Use Extension (Residential), March 10, 2014; and
  - c. OCN Policy and Procedures for Processing Billboards, **February 9, 2015**.

### **13. Administrative Appeal**

Right to Appeal

- 13.1 Any person with a material interest may appeal a decision of the Land Authority with respect to the granting or withholding of an **lease** interest, consent or withholding consent to a sublease, or with respect to any administrative decision of the Land Authority pursuant to this Land Law.

Notice of Appeal

- 13.2 An appeal in which a decision is contested or objected to, must be made in writing within thirty (30) days of receipt of notice.



Obligations  
Under Lease appeal

13.3 An appeal in respect of an administrative decision made by staff under the supervision of the Land Manager, or in respect of the administration or management of rights or obligations under a lease, **permit, license**, or in respect of an administrative decision made by the Land Manager must be made in writing to the Land Manager.

Land Manager  
Review

- 13.4 Where an appeal is made to the Land Manager, the Land Manager shall have thirty (30) days to resolve the matter to the satisfaction of the appellant:
- a. where the Land Manager resolves the matter to the satisfaction of the appellant, a written summary shall be provided to the Land Authority regarding the outcome of the appeal; or
  - b. where the Land Manager is unable to resolve the matter to the satisfaction of the appellant:
    - i. the Land Manager shall prepare a written summary of the dispute and refer the appeal to the Land Authority;
    - ii. **within fourteen (14) days from the date the Land Manager referred the appeal to an Appeal Hearing, a date will be set for the Land Authority to meet;**
    - iii. **Appeal Hearing will be held by the Land Authority.**

Rights of Appellant

- 13.5 At an **Appeal Hearing** held ~~before~~ by the Land Authority, the appellant shall have the following rights:
- a. notice of the time and date set for the **Appeal Hearing**;
  - b. right to attend the **Appeal Hearing** ;
  - c. right to be assisted by legal counsel or other advisor at the **Appeal Hearing**, if the appellant so desires;
  - d. the right to receive copies or notice of all evidence or testimony;

- e. the right to present evidence or testimony;
- f. the right to challenge or question evidence or testimony; and
- g. the right to make arguments and submissions.

Deliberations

13.6 After the hearing of the appeal and all relevant evidence has been presented, the Land Authority may deliberate in camera and render a decision on the appeal.

Written Notice

13.7 The Land Authority Chair shall provide the appellant with a written notice accepting or rejecting the appeal.

Appeal to Council

- 13.8 The appellant may make a final appeal, **within fourteen (14) days**, to Council, if they are not satisfied with the decision of the Land Authority and the process to be followed will be:
- a. the appellant shall submit a written request for an appeal to Council stating his case;
  - b. a meeting will be set up to hear the appeal and the appellant and the Land Authority will be notified of the time, date and place of the appeal hearing;
  - c. a written summary will be prepared by the Land Authority;
  - d. representative(s) from the Land Authority shall be present at the appeal;
  - e. the appellant shall be in attendance or may submit a notarized or commissioned statement outlining the claim;
  - f. Council will deliberate, in camera, and will render a decision;
  - g. decision will be in writing and signed by a representative of Council; and
  - h. the decision of Council shall be final.

## **14. TRADITIONAL CLAIMS**

### Process

- 14.1 Traditional unregistered or undocumented Interests may be acknowledged under the process outlined in Part 9 of the *OCN Land Code* which dispute will be heard by a panel of elders.

### Given effect

- 14.2 Pursuant to Section 46.9 of the *OCN Land Code*, where the panel of elders determine that a claim is valid, Council will take such steps necessary to give effect to that determination provided that, where it is inequitable or unjust in all the circumstances to perfect the claim, Council may substitute another interest in OCN Land of equivalent area or value.

## **15. INCORPORATION BY REFERENCE**

### Inconsistent

- 15.1 Insofar as they are not inconsistent with this Land Law; policies or procedures developed, implemented or enacted pursuant to this Land Law, or any other Land Laws enacted, resolutions, policies or procedures 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.

## **16. SEVERABILITY**

### Jurisdiction

- 16.1 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 Law or any other Laws mentioned in the preamble and any policies and procedures thereunder or future Land Laws, shall remain in full force and effect.

## **17. AMENDMENTS**

### Requirements

- 17.1 This Land Law may be amended by Chief and Council in the following manner:

- a. a recommendation from the Land Authority, supporting or requesting the amendment;
- b. where the proposed amendment is substantial in nature, it may be referred to a community meeting for input;
- c. where an amendment is technical in nature or where urgent or following community input may be enacted by a written **Band Council** Resolution of Chief and Council.
- d. a written **Band Council** Resolution of Chief and Council amending this Land Law shall be filed with the Land Authority Registry.

Notice of Amendment

- 17.2 A notice of amendments shall be publicly posted and such reasonable efforts as the Land Authority deems necessary will be undertaken to provide notice to individuals off reserve.

**Done and passed** by the Board of Directors of Land Authority at a meeting held on 24th day of June, A.D. 2003 and **further recommends** that Chief and Council enact this Land Law For Governing the Use and Occupancy of OCN Lands.

**APPROVED AND ENACTED** by Chief and Council of Opaskwayak Cree Nation assembled on the 11<sup>th</sup> day of August, 2003.

**AMENDMENTS AND REVISION OF THIS LAND LAW FOR GOVERNING THE USE AND OCCUPANCY OF OPASKWAYAK CREE NATION LANDS** has been approved by the Land Authority for recommendation to ~~and implementation by~~ Chief and Council of Opaskwayak Cree Nation for approval and adoption at their meeting assembled this 20th day of January, 2016.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Vice-Chairperson

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Witness to Land Authority's Signature

Submitted for 1<sup>st</sup> Reading September 17, 2015  
Submitted for 2<sup>nd</sup> Reading October 6, 2015  
Submitted for 3<sup>rd</sup> Reading January 20, 2016

**AMENDMENTS AND REVISION OF THIS LAND LAW FOR GOVERNING THE USE AND OCCUPANCY OF OPASKWAYAK CREE NATION LANDS IS DULY APPROVED AND ENACTED** by Chief and Council of Opaskwayak Cree Nation assembled this day of \_\_\_\_\_, A.D. 20\_\_ for implementation.

\_\_\_\_\_  
Chief

\_\_\_\_\_  
Councillor

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Councillor

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Councillor

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Witness to Council's Signature

Submitted for 1<sup>st</sup> Reading **January 25, 2016**  
Submitted for 2<sup>nd</sup> Reading \_\_\_\_\_, 20\_\_  
Submitted for 3<sup>rd</sup> Reading \_\_\_\_\_, 20\_\_