



# Misipawistik Cree Nation Land Code

*February 7, 2017*

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## **PREAMBLE**

*Whereas the Misipawistik Cree Nation has a profound relationship with the land;*

*And Whereas the Misipawistik Cree Nation wishes to manage its land and resources rather than having its lands and resources managed on its behalf under the Indian Act.*

*Now therefore, this Land Code is hereby enacted as the fundamental land law of the Misipawistik Cree Nation.*

## **PART 1 PRELIMINARY MATTERS**

### **1. TITLE**

Title

1.1 The title of this enactment is the *Misipawistik Cree Nation Land Code*.

### **2. INTERPRETATION**

Definitions

2.1 The following definitions apply in this Land Code:

“Community Land” – means any Misipawistik Cree Nation land in which all members have a common interest and which have not been allocated.

“Council” – means the Chief and Council of the Misipawistik Cree Nation.

“Eligible Voter” – means a member who has attained the age of 18 years.

“First Nation Land Register” – means the register maintained by the Department of Indigenous and Northern Affairs Canada under the Framework Agreement.

“Framework Agreement” – means the Framework Agreement on First Nation Land Management, entered into between the Minister of Indigenous and Northern Affairs Canada and the Chiefs of fourteen First Nations, on February 12, 1996, as amended.

“Lands Committee” – means the Lands Committee established under section 25 of this Land Code.

“Law” – means a law enacted pursuant to this Land Code.

“Meeting of Members” – means a meeting under section 12 to which the members are invited to attend.

“Member” – means a person whose name appears or is entitled to appear on the Misipawistik Cree Nation band membership list.

“Misipawistik Cree Nation Land” – means any portion of a reserve that is subject to this Land Code under section 5.

“Misipawistik Cree Nation Land Register” – means the register maintained by Misipawistik Cree Nation, pursuant to section 30 of this Land Code, for the purpose of registering interests in Misipawistik Cree Nation land.

“Panel” – means the dispute resolution panel established under section 39.

“Ratification Vote” – means a vote of eligible voters under section 15.

“Resolution” – means a resolution of the Council enacted under this Land Code.

“Spouse” – means a person who is married to another person, whether by a traditional, religious or civil ceremony, or a common-law partner who, not being married to the other person, cohabited

with him or her in a conjugal relationship for a period of at least two years or for a period of at least one year and they are together the parents of a child.

“Transfer Agreement” – means the Individual Transfer Agreement made between Misipawistik Cree Nation and the Crown in right of Canada.

#### Paramountcy

2.2 If there is an inconsistency between this Land Code and any other enactment of the Misipawistik Cree Nation, this Land Code prevails to the extent of the inconsistency.

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

#### Culture and traditions

2.4 The structures, organizations and procedures established by or under this Land Code shall be interpreted in accordance with the culture, traditions and customs of the Misipawistik Cree Nation, unless otherwise provided.

#### Language

2.5 The language of the Misipawistik Cree Nation may be used to clarify the meaning of any provision in this Land Code, if the meaning of that provision is not otherwise clear in English.

#### Non-abrogation

2.6 This Land Code does not abrogate or derogate from any inherent, Indigenous or treaty rights or freedoms that pertain to the Misipawistik Cree Nation or its members.

#### Fiduciary relationship

2.7 This Land Code does not abrogate the fiduciary relationship between the Crown and the Misipawistik Cree Nation and its members.

Lands and interests affected

- 2.8 A reference to “land” in this Land Code means all rights and resources that belong to the land, and includes:
- (a) The water, beds underlying water, riparian rights and renewable and non-renewable natural resources belonging to that land, to the extent that these are under the jurisdiction of Canada or Misipawistik Cree Nation; and
  - (b) All interests and licences transferred to the Misipawistik Cree Nation by the Crown in right of Canada listed in the Transfer Agreement.

### **3. AUTHORITY TO GOVERN**

Origin of authority

- 3.1 The traditional teachings of the Misipawistik Cree Nation speak of the obligation of the people of the Misipawistik Cree Nation to care for and respect the land and the magnificent wonders of nature created on land. By enacting this Land Code, the Misipawistik Cree Nation is reassuming this special responsibility.

Flow of authority

- 3.2 The authority of the Misipawistik Cree Nation to govern its lands and resources flows from the Creator to the people of Misipawistik Cree Nation and from the people to the Chief and Council according to the culture, traditions, customs and laws of our Misipawistik Cree Nation.

### **4. PURPOSE**

Purpose

- 4.1 The purpose of this Land Code is to set out the principles and administrative structures that apply to Misipawistik Cree Nation lands and by which the Misipawistik Cree Nation will exercise

authority over those lands in accordance with the Framework Agreement.

Ratification

- 4.2 The Framework Agreement is ratified and confirmed by Misipawistik Cree Nation when this Land Code takes effect by a community vote.

## **5. DESCRIPTION OF MISIPAWISTIK CREE NATION LAND**

First Nation land

- 5.1 The Misipawistik Cree Nation land that is subject to his Land Code is listed and described in the Transfer Agreement.

Additional lands

- 5.2 The following lands may be made subject to this Land Code after the applicable condition is met:
- (a) Any land owned jointly by the Misipawistik Cree Nation and another First Nation, when the First Nations involved agree upon a joint management scheme for those lands; and
  - (b) Any land or interest acquired by the Misipawistik Cree Nation after this Land Code take effect, whether by land claim, purchase or other process, when an environmental audit declares it free of environmental hazard and safe for community use, provided the lands are set aside as a reserve.

Land exchange

- 5.3 For greater certainty, section 5.2 does not apply to land acquired by land exchange, which is governed by the process in section 18.

Inclusion of land or interest

- 5.4 Council shall call a meeting of members under section 12 to obtain the views of members on any proposed inclusion of lands before

Council makes any law or resolution to include lands referred to in section 5.2 of this Land Code.

## **PART 2 FIRST NATION LEGISLATION**

### **6. LAW MAKING POWERS**

Authority of Council

- 6.1 Council has ultimate authority over all matters relating to the management and administration of Misipawistik Cree Nation Lands, whether or not matters have been assigned or delegated to an individual or body by or under this and Code.
- 6.2 Notwithstanding section 6.1, and subject to the Act, the Framework Agreement and this Land Code, Council may assign or delegate to the Lands Department, or a body established by or under this Land Code, any of its functions under this Land Code.

Council may make laws

- 6.3 The Council may, in accordance with this Land Code, make laws respecting the development, conservation, protection, management, use and possession of Misipawistik Cree Nation lands, interests and licences in relation to those lands. This power includes the power to make laws in relation to any matter necessary to the making of laws in relation to the Misipawistik Cree Nation land.

Examples of laws

- 6.4 The following examples illustrate some of the laws that may be enacted:
  - (a) Laws on regulation, control and prohibition of zoning, land use, subdivision control and land development;

- (b) Laws on the creation, regulation and prohibition of interests and licences in relation to Misipawistik Cree Nation land;
- (c) Laws on environmental assessment and protection;
- (d) Laws on the provision of local services in relation to Misipawistik Cree Nation land and the imposition of equitable user charges; and
- (e) Laws on the provision of services for the resolution, outside the courts, of disputes in relation to Misipawistik Cree Nation land.

## **7. LAW-MAKING PROCEDURE**

### Introduction of laws

7.1 A proposed law may be introduced at a duly convened meeting of the Council by:

- (a) The Chief or a Councillor; or
- (b) The representative of any body or authority composed of members that may be authorized by Council to do so.

### Tabling and posting of proposed laws

7.2 Before a proposed law may be enacted by the Council, it must first be:

- (a) Tabled at a meeting of the Council held at least 28 days before the law is to be enacted; and
- (b) Posted in public places on Misipawistik Cree Nation land at least 21 days before the law is to be enacted.

### Urgent matters

7.3 The Council may enact a law without the preliminary steps required under section 7.2, if the Council is of the opinion that the law is needed urgently to protect Misipawistik Cree Nation land or the

members. However, the law expires 120 days after its enactment, unless re-enacted in accordance with section 7.2.

#### Approval of law by Council

7.4 A law is enacted if it is approved by a quorum of Council at a meeting of the Council.

#### Certification of laws

7.5 The original copy of any law or resolution concerning Misipawistik Cree Nation land shall be signed by a quorum of the Council present at the meeting at which it was enacted.

## **8. PUBLICATION OF LAWS**

#### Publication

8.1 All laws shall be published in the minutes of the Council.

#### Posting laws

8.2 Within 7 days after a law has been enacted, the Council shall post a copy of the law in the administrative office of Misipawistik Cree Nation and such other public places as Council shall determine from time to time.

#### Registry of laws

8.3 The Council shall cause to be kept, at the administrative offices of the Misipawistik Cree Nation, a register of the original copy of all laws and resolutions, including laws and resolutions that have been repealed or are no longer in force.

#### Copies for any person

8.4 Any person may obtain a copy of a law or resolution on a payment of a reasonable fee set by the Council.

## **9. COMMENCEMENT OF LAWS**

Laws taking effect

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

## **10. AMENDMENTS TO THE LAND CODE**

Amendment procedures

- 10.1 The Council may, by resolution, make non-substantive amendments to this Land Code.
- 10.2 Any substantive amendments to this Land Code shall be subject to ratification, in accordance with section 15.

## **PART 3 COMMUNITY APPROVALS**

### **11. RIGHTS OF ELIGIBLE VOTERS**

Rights of eligible voters

- 11.1 Each member who is at least 18 years of age is eligible to vote at a meeting of members and ratification vote.

### **12. COMMUNITY INPUT**

Prior meeting of members

- 12.1 The Council shall convene a meeting of members to receive their input prior to the introduction of the following:
  - (a) A law respecting a community plan or subdivision plan;
  - (b) A law declaring land or an interest referred to in section 5.2 to be subject to this Land Code;

- (c) A law affecting a heritage site or an environmentally sensitive property;
- (d) A law respecting environmental assessment;
- (e) A law respecting the transfer and assignment of interest in land;
- (f) A law respecting the rate and criteria for the payment fess or rent for land; and
- (g) Any other law or class of law that Council, by resolution, declares to be subject to this section.

Process to implement laws

12.2 The Lands Committee shall, within reasonable time after this Land Code takes effect, establish a community process to develop and implement the laws referred to in section 12.1.

### **13. COMMUNITY APPROVAL AT A MEETING OF MEMBERS**

Community of approval by meeting

13.1 Community approval at a meeting of members must be obtained for the following:

- (a) Any land use plan;
- (b) Any grant or disposition of an interest in or licence to use Misipawistik Cree Nation land exceeding a term of 75 years;
- (c) Any renewal of a grant or disposition of an interest or licence to use on any Misipawistik Cree Nation land that extends the original term beyond 75 years;
- (d) Any grant or disposition of any natural resources on any Misipawistik Cree Nation land exceeding a term of 5 years;

- (e) Any charge or mortgage of a leasehold interest exceeding a term of 75 years;
- (f) Any law on spousal separation that may be enacted under section 38; and
- (g) Any other law or class of law that Council, by resolution, declares to be subject to this section.

13.2 Council may grant a right of way or permit in Misipawistik Cree Nation Lands for telecommunication, water, electricity, gas sewer and other like utility purposes ancillary thereto for any length of term without first obtaining the approval of eligible voters provided for in subsection 13.1 (c).

#### **14. PROCEDURE AT A MEETING OF MEMBERS**

Voting

14.1 Decisions at a meeting of members are to be made by a majority vote of the eligible voters, provided a quorum is present at the meeting.

Notice of meeting

14.2 The Council shall give written notice of the meeting of members that:

- (a) Specifies the date, time and place of the meeting; and
- (b) Contains a brief description of the matters to be discussed and decided on at the meeting.

Manner of notice

14.3 The notice of a meeting of members must be given to members by:

- (a) Posting the notice in a public place on Misipawistik Cree Nation land, at least 10 days before the meeting; and
- (b) Such additional methods as the Council may consider appropriate in the circumstances.

Who may attend

14.4 All members have a right to attend a meeting of members, but other persons may attend with the permission of the Council.

14.5 Any member or persons who attend the meeting should be free from the influence of drugs or alcohol or they will be asked to leave.

Quorum

14.6 The quorum for a meeting of members under this Land Code is a minimum of 20 eligible voters.

Other meetings

14.7 The Council may schedule more than one meeting of members to discuss and decide on a matter that requires a meeting of members.

## **15. RATIFICATION VOTES**

Community approval by ratification vote

15.1 Community approval by a ratification vote must be obtained for the following:

- (a) Any development on a heritage site referred to in section 17;
- (b) Any voluntary exchange on Misipawistik Cree Nation land;
- (c) Any substantive amendment to this Land Code; and
- (d) Any law or class of law that Council, by resolution, declares to be subject to this section.

Ratification process

15.2 Any ratification vote required under this Land Code shall be conducted in substantially the same manner as the Misipawistik Cree Nation Community Ratification Process, which was used to ratify this Land Code.

No verifier

15.3 A verifier is not needed in any ratification vote, except a vote on an amendment to this Land Code.

Minimum requirements for approval

15.4 A matter shall be considered approved at a ratification vote if a majority of the registered voters cast a vote in favour of the matter.

Other laws

15.5 For greater certainty, the Council may make laws respecting the Land Code amendment ratification process, and in particular may make laws with respect to the appointment, remuneration and functions of the verifier.

## **PART 4 PROTECTION OF LAND**

### **16. EXPROPRIATION**

Rights and interests that may be expropriated

16.1 An interest or licence in Misipawistik Cree Nation land, or in any building or other structure on those lands, may only be expropriated by Misipawistik Cree Nation in accordance with the Framework Agreement and any land law enacted for the purpose of establishing the rights and procedures for community expropriations.

Community purposes

16.2 A community expropriation may only be made for necessary community purpose or works of the Misipawistik Cree Nation, including but not limited to: a fire hall, sewage or water treatment facility, community center, public works, roads, schools, daycare facility, hospitals, health care facility, retirement home, churches, drainage ditches and/or parks.

#### Expropriation laws

16.3 Before proceeding to make any community expropriations in accordance with this Land Code, the Council shall enact a law respecting the rights and procedures for community expropriations, including provisions respecting:

- (a) The taking of possession of the interest or licence;
- (b) Transfer of the interest or licence;
- (c) Notice of expropriation and service of the notice of expropriation;
- (d) Entitlement to compensation;
- (e) Determination of the amount of compensation; and
- (f) The method of payment of compensation.

#### Public report

16.4 Before the Misipawistik Cree Nation decides to expropriate an interest or licence, it shall make a public report on the reasons justifying the expropriation.

#### Rights that may not be expropriated

16.5 An interest of the Crown in Right of Canada or the province is not subject to expropriation by the Misipawistik Cree Nation.

#### Acquisition by mutual agreement

16.6 The right of Misipawistik Cree Nation to expropriate can only be exercised after a good faith effort to acquire, by mutual agreement, the interest or licence in Misipawistik Cree Nation land.

#### Community approval

16.7 In the case of an expropriation of a member's interest, the expropriation must first receive community approval.

Compensation for rights and interests

16.8 Misipawistik Cree Nation shall, in accordance with its laws and the Framework Agreement:

- (a) Serve reasonable notice of the expropriation on each affected holder of the interest or licence to be expropriated; and
- (b) Make fair and reasonable compensation to the holders of the interest or licence being expropriated.

Compensation calculations

16.9 The total value of the compensation under this section will be based on the following:

- (a) The market value of the interest or licence that is being expropriated;
- (b) The replacement value of any improvement to the land that is being expropriated;
- (c) The damages attributable to any disturbance; and
- (d) Damages for any reduction in the value of a remaining interest.

Market value

16.10 The “market value” of an expropriated interest or licence is equal to the amount that would have been paid for the interest or licence, if it had been sold on the reserve by a willing seller to a willing buyer under no duress.

Neutral evaluation

16.11 A dispute concerning the right of Misipawistik Cree Nation to expropriate an interest or licence in Misipawistik Cree Nation lands shall be reviewed by the Panel for dispute resolution established under section 39.

## **17. HERITAGE SITES**

Community approval of development

17.1 No development shall be allowed on any site designated as a heritage site under the land use plan, unless the development receives community approval by a ratification vote.

Land use plan

17.2 No amendment may be made to a land use plan to delete a heritage site, unless the amendment receives community approval by a ratification vote.

## **18. VOLUNTARY LAND EXCHANGES AND PROTECTIONS**

Conditions for a land exchange

18.1 The Misipawistik Cree Nation may agree with another party to exchange a parcel of Misipawistik Cree Nation land for a parcel of land from another party, in accordance with this Land Code and the Framework Agreement.

No effect

18.2 A land exchange is not of effect unless it receives community approval by a ratification vote.

Land to be received

18.3 No land exchange may occur unless the land to be received in the exchange meets the following conditions:

- (a) It must be equal to or greater than the area of the Misipawistik Cree Nation land to be exchanged;
- (b) It must be at least comparable to the appraised value of the Misipawistik Cree Nation land; and
- (c) It must become a reserve and Misipawistik Cree Nation land, subject to this Land Code.

#### Negotiators

18.4 The persons who will have authority to negotiate a land exchange agreement on behalf of Misipawistik Cree Nation must be designated by resolution.

#### Additional land

18.5 The Misipawistik Cree Nation may negotiate to receive other compensation, such as money or one or more other parcels of land. In addition to the parcel referred to above, which is intended to become a reserve, such other parcels of land may be held by the Misipawistik Cree Nation in fee simple or some other manner.

#### Federal consent

18.6 Before the Misipawistik Cree Nation concludes a land exchange agreement, it must receive a written statement from Canada clearly stating that the Crown in Right of Canada,

- (a) Consents to set apart as a reserve the land to be received in exchange, as of the date of the land exchange or such a later date as the Council may specify by resolution or as provided by an agreement with Canada; and
- (b) Consents to the manner and form of the exchange as set out in the exchange agreement.

#### Community notice

18.7 Once negotiations on the land exchange agreement are concluded, the Council shall provide the following information to eligible voters at least 21 days before the vote:

- (a) A description of the Misipawistik Cree Nation land to be exchanged;
- (b) A description of the land to be received in the exchange;
- (c) A description of any other compensation to be exchanged;

- (d) A report of a certified land appraiser setting out that the conditions in section 18.3 have been met;
- (e) A copy or summary of the exchange agreement; and
- (f) A copy of the consent referred to in section 18.6.

Process of a land exchange

18.8 The land exchange agreement shall provide that:

- (a) The other party to the exchange must transfer to Canada, the title to the land, which is to be set apart as a reserve;
- (b) The Council must pass a resolution authorizing Canada to transfer title to the Misipawistik Cree Nation land being exchanged, in accordance with the exchange agreement; and
- (c) A copy of the instruments transferring title to the relevant parcels of land and they must be registered in the First Nation Land Register and the Misipawistik Cree Nation Land Register.

## **PART 5 ACCOUNTABILITY**

### **19. CONFLICT OF INTEREST**

Conflict of interest

19.1 The rules in section 19 apply to the following persons:

- (a) A member of Council who is dealing with any matter before Council pertaining to the management or administration of Misipawistik Cree Nation lands; and
- (b) A member of the Lands Committee.

- 19.2 A person to which this Part applies has a conflict of interest when the person is being asked to deliberate or decide on a matter where there is opportunity to further his or her private interest or the private interest of his or her immediate family.
- 19.3 A person to which this Part applies has an apparent conflict of interest if there is a reasonable perception, which reasonably well informed person could properly have that person's ability to deliberate or decide on the matter must have been affected by his or her private interest or the private interest of a member of his or her immediate family.
- 19.4 A private interest does not include an interest that a person or a member of his or her immediate family has in a matter by virtue of the fact that the person or his or her immediate family member is a member.

#### Conflict of interest prohibition

- 19.5 A person to which this Part applies must not exercise his or her power or carry out his or her responsibility provided for in this Land Code, if the person has a conflict of interest or an apparent conflict of interest.

#### Procedure on conflict of interest

- 19.6 A person to which this Part applies, who has reasonable grounds to believe that he or she has a conflict of interest in a matter before Council or the Lands Committee, as the case may be, if present at a meeting considering the matter:
- (a) Disclose the general nature of the conflict of interest; and
  - (b) Physically withdraw from the meeting without voting or participating in the consideration of the matter.
- 19.7 If a person has complied with section 19.6, the person taking the minutes of the meeting must record:
- (a) The disclosure;

- (b) The general nature of the conflict of interest disclosed;  
and
- (c) The withdrawal of the person from the meeting.

Conflict of interest in doubt

19.8 If a person to which this Part applies is in doubt whether he or she has a conflict of interest, he or she may request a decision on whether he or she is in compliance with this Part:

- (a) From Council, if the person is a member of Council; or
- (b) From the Lands Committee, if the person is a member of the Lands Committee.

19.9 If a person to which this Part applies has reasonable grounds to believe that another person (the "Subject") to which this Part applies has a conflict of interest, the former may request a decision on whether the Subject is in compliance with this Part:

- (a) From Council, if the Subject is a member of Council;
- (b) From the Lands Committee, if the Subject is a member of the Lands Committee.

19.10 A decision of the Council or the Lands Committee, as the case may be, made pursuant to section 19.8 or 19.9 shall be final.

Failure to establish quorum due to conflict

19.11 Where, as a result of a conflict of interest, a quorum of Council can never be established, the remaining members of Council may refer the matter for community approval at a meeting of members to enact the land law or land resolution.

19.12 Where, as a result of a conflict of interest, a quorum of the Lands Committee can never be established, the matter shall be referred to Council for a decision.

## 20. FINANCIAL MANAGEMENT

### Application

20.1 This section applies only to financial matters relating to Misipawistik Cree Nation land.

### Establishment of bank accounts

20.2 The Council shall maintain one or more financial accounts in a financial institution and shall deposit in those accounts:

- (a) Transfer payments received from Canada for the management and administration on Misipawistik Cree Nation land;
- (b) Moneys received by Misipawistik Cree Nation from the grant or disposition of any interest or licence in Misipawistik Cree Nation land;
- (c) All fees, fines, charges and levies collected under land law or land resolution;
- (d) All capital and revenue moneys received from Canada from the grant or disposition of any interests and licences in Misipawistik Cree Nation land; and
- (e) Any other land revenue received by Misipawistik Cree Nation.

### Signing officers

20.3 The Council shall authorize at least three persons, at least one of whom shall be a member of the Council, to sign cheques and other bills of exchange or transfer drawn on the account.

### Two signatures

20.4 To be valid, a cheque or other bill of exchange or transfer drawn on the account must be signed by two signing officers.

#### Fiscal year

20.5 The fiscal year of the Misipawistik Cree Nation begins on April 1<sup>st</sup> of each year and ends on March 31<sup>st</sup> of the following year.

#### Adoption of budget

20.6 The Council shall, by resolution, prior to the beginning of each fiscal year, adopt a land management budget for that fiscal year and may, if the Council deems it necessary in the course of the fiscal year, adopt supplementary budgets for that fiscal year.

#### Procedure

- 20.7 After adopting the land management budget or supplementary budget, the Council shall, without undue delay,
- (a) Explain the budget or supplementary budget to the members at an annual community meeting; and/or
  - (b) Make a copy of the budget or supplementary budget available at the administrative office of Misipawistik Cree Nation for inspection by members at reasonable hours.

#### If no budget

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

#### Budget rules

20.9 The Council may make rules respecting the preparation and implementation of land management budgets.

#### Expenditures

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

Financial policy

20.11 The Misipawistik Cree Nation may, consistent with this Land Code, adopt a financial policy to further manage moneys related to Misipawistik Cree Nation land.

## **21. FINANCIAL RECORDS**

Financial records

21.1 Misipawistik Cree Nation shall keep financial records related to land in accordance with generally accepted accounting principles.

Preparation of financial statement

21.2 Within 90 days after the end of each fiscal year, the Misipawistik Cree Nation shall prepare a financial statement in comparative form, containing at a minimum:

- (a) A balance sheet;
- (b) A statement of revenues and expenditures and a comparison of these with the amounts stated in the land management budget and any supplementary budget; and
- (c) Any other information necessary for a fair presentation of the financial position of Misipawistik Cree Nation.

Consolidated accounts, etc.

21.3 The accounting, auditing and reporting requirements of this Land Code, may be done together with, and consolidated with the other accounts, audits and reports of Misipawistik Cree Nation.

## 22. AUDIT

### Appointment of auditor

22.1 For each fiscal year, a duly accredited auditor shall be appointed to audit the land related financial records of Misipawistik Cree Nation.

### Holding office

22.2 The auditor appointed under this section holds office until reappointed or replaced.

### Vacancy in office

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

### Remuneration

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

### Duty of auditor

22.5 The auditor shall, within 120 days after the end of the Misipawistik Cree Nation's fiscal year, prepare and submit to the Council a report on the Misipawistik Cree Nation's financial statement. Stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of the Misipawistik Cree Nation in accordance with generally accepting accounting principles applied on a basis consistent with that applied in the previous fiscal year.

### Access to records

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

### Explanation of auditor's report

22.7 The Council shall present the auditor's report to the members at a meeting of members.

## **23. ANNUAL REPORT**

Publish annual report

23.1 The Misipawistik Cree Nation Lands Department, on behalf of the Council, shall publish an annual report on lands issues within one month of receipt of the audit report.

Contents

23.2 The annual report will include:

- (a) An annual review of land management;
- (b) A copy and explanation of the audit as it applies to lands; and
- (c) Any other matter as determined by the Council or Lands Committee.

## **24. ACCESS TO INFORMATION**

Access

24.1 Any member may, during normal business hours of the administrative office of Misipawistik Cree Nation, have reasonable access to:

- (a) The register of laws;
- (b) The auditor's report; and
- (c) The annual report on lands.

Copies for members

24.2 Any member may obtain a copy of the auditor's report or annual report on payment of a reasonable fee set by or under resolution of the Council.

Offences

24.3 A person is guilty of an offence if the person:

- (a) Impedes or obstructs anyone from exercising their right to inspect the financial records of Misipawistik Cree Nation; or
- (b) Has control of the books or account or financial records of Misipawistik Cree Nation and fails to give all reasonable assistance to anyone exercising their right to inspect the financial records.

## **PART 6 LAND ADMINISTRATION**

### **25. LANDS COMMITTEE**

Lands Committee established

25.1 The Lands Committee is hereby established to:

- (a) Assist with the development of the land administration system;
- (b) Advise the Council and its staff on matters respecting Misipawistik Cree Nation land;
- (c) Recommend laws, resolutions, policies and practices respecting Misipawistik Cree Nation land to the Council;
- (d) Hold regular and special meetings of members to discuss land issues and make recommendations to Council on the resolution of these land issues;
- (e) Assist in the communication of land issues between members and the Council; and
- (f) Oversee community approvals under this Land Code.

Development of land related rules and procedures

25.2 Within a reasonable time after this Land Code takes effect, the Lands Committee shall, in consultation with the community, ensure that laws, rules and procedures, as may be appropriate, are developed that address the following matters:

- (a) Environmental protection and assessment in relation to Misipawistik Cree Nation land;
- (b) Any outstanding issues on the resolution of disputes in relation to Misipawistik Cree Nation land;
- (c) Land use planning and zoning;
- (d) Section 38 respecting spousal separation and whether any change should be made to the policy upon which that section is based; and
- (e) Any other matter referred by Council.

Implementation of policies

25.3 The rules and procedures, once developed, shall be presented to the Council for consideration and implementation as policies, laws or amendments to this Land Code, whichever is most appropriate.

Internal procedures

25.4 The Lands Committee may establish rules for the procedure at its meetings and generally for the conduct of its affairs, not inconsistent with those established by the Council.

## **26. MEMBERSHIP OF THE LANDS COMMITTEE**

Composition

26.1 The Lands Committee shall be composed of 6 members, all of whom must be eligible voters and one who is the Council portfolio holder.

Eligibility to be appointed as a Lands Committee member

26.2 Any eligible voter, whether resident on or off Misipawistik Cree Nation land, is eligible for appointment to the Lands Committee, except for the following persons:

- (a) Any person convicted of an offence that was prosecuted by way of indictment;
- (b) Any person whom declared bankruptcy; and
- (c) Any person convicted of a corrupt practice in connection with an election, including accepting a bribe, dishonesty or wrongful conduct.

Selection of Lands Committee members

26.3 The committee members will be selected from interested members of Misipawistik Cree Nation.

Term of office

26.4 The length of the term for the members of the Lands Committee will be 3 years or until replacements are made by Council appointment.

Staggered terms

26.5 The commencement of the terms of office of the members of the Lands Committee are to be staggered as follows:

- (a) Two members are to be appointed by the Council as soon as possible after the election of the Council.
- (b) The other members are to be appointed mid-way through the term of the Council on a date fixed by the Council.

Vacancy on Lands Committee

26.7 The position of a member of the Lands Committee becomes vacant if the person:

- (a) Resigns;

- (b) Is or becomes ineligible to hold office under section 26.2;
- (c) Transfers his or her membership to another First Nation; or
- (d) Is absent for 3 consecutive meetings of the Lands Committee for a reason other than illness or incapacity and without being authorized to do so by the Lands Committee.

#### Vacancy in term

26.8 Where the position of a member of the Lands Committee becomes vacant for more than 90 days before the date when another appointment would ordinarily be held, a special appointment may be made in accordance with this Land Code, as the case may be, to fill the vacancy.

#### Balance of term of office

26.9 A member of the Lands Committee appointed to fill a vacancy remains in office for the balance of the term in respect of which the vacancy occurred.

## **27. CHAIRPERSON OF THE LANDS COMMITTEE**

#### Chairperson

27.1 The committee shall appoint a Chairperson.

#### Alternate chairperson

27.2 If the Chairperson is unable to perform the functions of office, either temporarily or on a long-term basis, the Lands Committee shall appoint one of the other Lands Committee members to act as or be the Chairperson.

#### Functions of chairperson

27.3 The functions of the Chairperson include:

- (a) Ensuring the preparation of financial statements relating to all activities of the Lands Committee including revenues and expenditures concerning Misipawistik Cree Nation lands;
- (b) Tabling the Lands Committee's financial statements with the Council;
- (c) Reporting to the Misipawistik Cree Nation on the activities of the Lands Committee; and
- (d) Ensuring that the audited annual financial statements are published under section 23.

## **28. REVENUE FROM LANDS**

Determination of fees and rent

28.1 The Lands Committee shall, subject to the approval of the Council, establish the process and recommend any laws, rules and policies for determining:

- (a) The fees and rent for interests and licences in community land;
- (b) The fees for services provided in relation to Misipawistik Cree Nation land; and
- (c) The fees and royalties to be paid for, for the taking of natural resources from Misipawistik Cree Nation Land.

## **29. REGISTRATION OF INTERESTS AND LICENCES**

Enforcement of interest and licences

29.1 An interest of licence in Misipawistik Cree Nation land created or granted after this Land Code takes effect is not enforceable unless it is registered in the First Nation Land Register.

Registration of consent of approval

29.2 An instrument granting an interest or licence in Misipawistik Cree Nation land that requires the consent of the Council, or community approval, shall include a certificate issued by the Lands Coordinator indicating that the applicable consent or approval has been obtained.

29.3 An instrument registered in the First Nation Land Register which does not include the certificate referred to in clause 29.2 is void.

Duty to deposit

29.4 The Council shall ensure that an original copy of the following instruments is deposited in the First Nation Land Register:

- (a) Any grant of an interest or licence in Misipawistik Cree Nation land;
- (b) Any transfer or assignment of an interest or licence in Misipawistik Cree Nation land;
- (c) Any charge or mortgage on a leasehold interest made in accordance with section 36;
- (d) Any laws made pursuant to this Land Code;
- (e) Every land use plan, subdivision plan or resource use plan; and
- (f) This Land Code and any amendment to this Land Code.

### **30. DUPLICATE LANDS REGISTER**

Maintain duplicate register

30.1 The Council shall establish and maintain a duplicate lands register known as the Misipawistik Cree Nation Land Register and may make laws with respect to the land register and the effect of registering documents in the register.

Duty to deposit

30.2 The Council shall ensure that an original copy of all instruments referenced in section 29 are deposited in the Misipawistik Cree Nation Land Register.

## **PART 7 INTERESTS AND LICENCES IN LAND**

### **31. LIMITS ON INTERESTS AND LICENCES**

All dispositions in writing

31.1 An interest in or licence to use Misipawistik Cree Nation land may only be created, granted, disposed of, assigned or transferred by a written document in accordance with this Land Code.

Standards

31.2 The Council may establish mandatory standards, criteria and forms for interests and licences in Misipawistik Cree Nation land.

Improper transactions void

31.3 A deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which the Misipawistik Cree Nation, a member or any other person purports to grant, dispose of, transfer or assign an interest or licence in Misipawistik Cree Nation land after the date this Land Code takes effect is void if it contravenes this Land Code.

Non-members

31.4 A person who is not a member may only hold a lease, permit, right of way, easement or licence to use Misipawistik Cree Nation land.

Grants to non-members

31.5 The written consent of the Council must be obtained for any grant or disposition of an interest or right to use Misipawistik Cree Nation

land, including leases, permits, rights of way, easements to a person who is not a member.

### **32. EXISTING INTERESTS**

Continuation of existing interests and licences

32.1 Any interest or licence in Misipawistik Cree Nation land that existed when this Land Code takes effect will, subject to this Land Code, continue in force in accordance with its terms and conditions.

### **33. NEW INTERESTS AND LICENCES**

Authority to make dispositions

33.1 Subject to section 13.1, the Council may, on behalf of Misipawistik Cree Nation, grant:

- (a) Interests in and licences to use community lands, including leases, permits, easements and rights of ways; and
- (b) Licences to take resources from community lands, including cutting timber, or removing minerals, stone, sand gravel, clay, soil or other substances.

Conditional grant

33.2 The grant of an interest or licence may be made subject to the satisfaction of written conditions.

Role of the Lands Committee

33.3 The Lands Committee shall advise Council on the granting of interests or licences and may be authorized to act as a delegate of the Council under this section.

### **34. ALLOCATION OF LAND**

Allocation of lots

- 34.1 The Council may allocate a lot from available Misipawistik Cree Nation land to a member in accordance with policies and procedures established by the Council.
- 34.2 No community approval is required for the allocation of lots to members.

No Certificates of Possession to be issued

- 34.3 The Council will not issue a Certificate of Possession to any person.

No allocation of lots to non-members

- 34.4 A person who is not a member is not entitled to be allocated a lot or to hold a permanent interest in Misipawistik Cree Nation land.

### **35. TRANSFER AND ASSIGNMENT OF INTERESTS**

Consent of Council

- 35.1 Except for transfers that occur by operation of law (i.e. the right of a spouse to a matrimonial home on spousal separation):
- (a) There shall be no transfer or assignment of an interest in Misipawistik Cree Nation land without the written consent of the Council; and
  - (b) The grant of an interest in or licence to use is deemed to include section 35.1 (a) as a condition on any subsequent transfers or assignments.

## 36. LIMITS ON MORTGAGES AND SEIZURES

### Protections

36.1 Subject to this Land Code, section 29, section 87 and subsections 89 (1) and (2) of the Indian Act continue to apply to Misipawistik Cree Nation land.

### Mortgages of leasehold interests with consent

36.2 A leasehold interest may be subject to charge or mortgage, with the approval of Misipawistik Cree Nation, in accordance with section 13.1 of this Land Code or the written consent of the Council, as may be applicable.

### Time limit

36.3 The term of any charge or mortgage of a leasehold interest shall not exceed:

- (a) The term of the lease; or
- (b) 75 years, or such longer period as may receive community approval.

### Default in mortgage

36.4 In the event of a default in the terms of a charge or mortgage of a leasehold interest, the leasehold interest is not subject to possession by the charge or mortgagee, by way of foreclosure, power of sale or any other form of execution or seizure, unless:

- (a) The charge or mortgage received the written consent of the Council;
- (b) The charge or mortgage received community approval where required;
- (c) The charge or mortgage was registered in the First Nation Land Register and the Misipawistik Cree Nation Land Register; and

- (d) A reasonable opportunity to redeem the charge or mortgage is given to the Council on behalf of Misipawistik Cree Nation.

Power of redemption

36.5 If the Council exercises its power of redemption with respect to a leasehold interest, the Misipawistik Cree Nation becomes the lessee of the land and takes the position of the charger or mortgagor for all purposes after the date of the redemption.

### **37. RESIDENCY AND ACCESS RIGHTS**

Right of residence

37.1 The following persons have a right to reside on Misipawistik Cree Nation lands:

- (a) Members who have been allocated a residential lot by Council, and their spouse or children;
- (b) Members with a registered interest in Misipawistik Cree Nation land;
- (c) Any invitee of a member referred to in clause (a) or (b); and
- (d) Lessees or permittees, in accordance with the provisions of the granting instrument.

Right of access

37.2 The following persons have a right of access to Misipawistik Cree Nation lands:

- (a) A lessee and his or her invitees;
- (b) A person granted a right of access under a permit;
- (c) Misipawistik Cree Nation members and their spouses and children;

- (d) A person who is authorized by a government body or any other public body, established by or under an enactment of the Misipawistik Cree Nation Parliament or the Province to establish, operate or administer a public service, to construct or operate a public institution or to construct a technical survey; or
- (e) A person authorized in writing by the Council/Lands Committee or by a Misipawistik Cree Nation law.

#### Public access

37.3 Any individual may have access to Misipawistik Cree Nation land for any social or business purposes, so long as the individual is respectful and is non-disruptive and respects the Misipawistik Cree Nation lands, if:

- (a) The individual does not trespass on occupied land and does not interfere with any interest in land;
- (b) The individual complies with all applicable laws; and
- (c) No resolution has been enacted barring the individual.

#### Trespass

37.4 Any person, who resides on, enters or remains on Misipawistik Cree Nation land other than in accordance with a residence or access right under this Land Code is guilty of an offence.

## **38. SPOUSAL PROPERTY LAW**

### Development of rules and procedures

38.1 The Council shall enact a spousal property law providing rules and procedure applicable on the breakdown of a marriage, to address:

- (a) The use, occupancy and possession of Misipawistik Cree Nation land; and
- (b) The division of interests in that land.

Enactment of rules and procedures

38.2 The rules and procedures contained in the spousal property law shall be developed by the Lands Committee in consultation with the community.

General principles

38.3 For greater certainty, the rules and procedures developed by the Lands Committee under this section must respect the following general principles:

- (a) Each spouse should have an equal right to their matrimonial home;
- (b) The rules and procedures shall not discriminate on the basis of sex; and
- (d) Only members are entitled to hold a permanent interest in Misipawistik Cree Nation Land or charge against permanent interest in Misipawistik Cree Nation Land.

Immediate rules

38.4 The rules and procedures contained in the federal Family Home on Reserve and Matrimonial Interests and Rights Act will be in effect until Misipawistik Cree Nation adopts its own spousal property law.

## **PART 8 DISPUTE RESOLUTION**

### **39. DISPUTE RESOLUTION PANEL**

Panel established

39.1 The Dispute Resolution Panel is hereby established with jurisdiction to resolve disputes in relation to Misipawistik Cree Nation Land.

Representation

39.2 The Lands Committee shall nominate individuals to serve as panelists, and shall ensure that the Panel represents the various elements of the community, including, elders, youth, professionals and off-reserve members.

39.3 Panel members must be eligible voters.

List of panel members

39.4 The Council shall appoint members recommended by the Lands Committee, to create a list of eligible panelists from which a Dispute Resolution Panel of three or five members can be selected to hear a dispute.

Term of office

39.5 The panelists hold office until they either resign or are replaced by another Council appointment.

Remuneration

39.6 The Council shall determine the remuneration to be paid to the members of a Panel.

## 40. DISPUTE PROCEDURE

### Disputes

- 40.1 Any person whose interest in Misipawistik Cree Nation land is affected by a decision of the Council or Lands Committee may appeal the decision to the Panel.

### Disputes not resolved by Council

- 40.2 If member or a non-member with an interest in Misipawistik Cree Nation land has a dispute, with respect to a decision of the Lands Committee or the Council, the person must first attempt to resolve that dispute with the Council or the Lands Committee before referring to the Panel.

### Application procedures

- 40.3 Applications to the Panel shall be made in accordance with the procedure established by the Panel, upon a payment of a reasonable fee set by the Council.

### Limitation period

- 40.4 An application to refer a dispute with respect to a decision of the Lands Committee or the Council to the Panel shall be made within 30 days after the day the decision, act or omission being referred was made.

### Panel of three or five

- 40.5 Disputes referred to the Panel are to be heard by three or five panelists chosen as follows:
- (a) One (or two) panelist(s) are to be chosen by each of the parties to the dispute; and
  - (b) One panelist, who is to be the chairperson, is to be chosen by the rest of the Panel.
- 40.6 The decision to use three or five panelists to resolve a dispute will be made by the Council or Lands Committee on a case by case basis.

## **41. IMPARTIALITY**

Duty to act impartially

41.1 The Panel shall act impartially and without bias or favour to any party in a dispute.

Offence

41.2 It is an offence for a person to act or attempt to act in a way to improperly influence a decision of the Panel.

Rejection of application

41.3 In addition to any other sanction, the Panel may reject an application without hearing it, if the Panel believes that the applicant acted, or attempted to act, in a way to improperly influence its decision.

## **42. POWERS OF PANEL**

Powers of panel

42.1 The Panel may, after hearing a dispute:

- (a) Confirm or reverse the decision, in whole or in part;
- (b) Substitute its own decision for the decision in dispute;
- (c) Direct that an action be taken or ceased; or
- (d) Refer the matter or dispute back for a new decision.

Rules of Panel

42.2 The Panel may establish rules for the procedure at its hearings and generally for the conduct of its affairs.

Professional services

42.3 The Panel may obtain the service of professionals to assist it in fulfilling its functions, in which case it shall make best efforts to use professional services available in the community.

Written decisions

42.4 Decisions of the Panel must be in writing, signed by the person chairing the Panel or by an officer designated by the Panel to do so.

Reasons

42.5 The Panel may give reasons for its decision, and shall do so in writing if a party to the proceedings requests them within 14 days after the date of the decision.

Appeal of decision

42.6 A decision of the Panel is binding.

## **PART 9 OTHER MATTERS**

### **43. LIABILITY**

Liability coverage

43.1 The Council shall arrange, maintain and pay out of the transfer payments received from Canada, insurance coverage for its officers and employees engaged in carrying out any matter related to Misipawistik Cree Nation land to indemnify them against personal liability arising from the performance of those duties.

Extent of coverage

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

Bonding

43.3 Every employee of the Misipawistik Cree Nation, whose responsibilities include land administration or collecting or accounting for land revenue must be bondable.

## **44. OFFENCES**

Application of the criminal code

- 44.1 Until some other procedure is provided for by a Misipawistik Cree Nation law, the summary conviction procedures of Part XXVII of the Criminal Code, as amended from time to time, apply to offences under this Land Code or under Misipawistik Cree Nation law.
- 44.2 Any person who commits an offence under this Land Code or an Misipawistik Cree Nation law is liable to a fine not to exceed \$5,000 and to a term of imprisonment not to exceed 6 (six) months or to both fine and imprisonment, provided however, that offences related to Misipawistik Cree Nation environmental protection laws may carry penalties consistent with similar environmental protection laws in force in Canada.
- 44.3 An Misipawistik Cree Nation law may provide for a penalty which is different than the penalties referred to in clause 44.2.

## **45. COMMENCEMENT**

Preconditions

- 45.1 This Land Code shall take effect if the community approves this Land Code and the Transfer Agreement with Canada by a ratification vote, held in accordance Misipawistik Cree Nation Community Ratification Process dated for reference February 7, 2017, and this Land Code has been certified by the verifier pursuant to the Framework Agreement.

Commencement date

- 45.2 This Land Code shall take effect on the first (1<sup>st</sup>) day of the month following the certification of this Land Code by the verifier.