



HENVEY INLET FIRST NATION
LAND CODE
SEPTEMBER 9, 2009

AMENDMENT NO. 1
NOVEMBER 27, 2012

CERTIFIED	
<u>APRIL 29/13</u>	<u></u>
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PREAMBLE

Whereas Henvey Inlet First Nation has a profound relationship with the land that is rooted in respect for the Spiritual value of the Earth and the gifts of the Creator;

Whereas Henvey Inlet First Nation has entered into the *Framework Agreement on First Nation Land Management* with Canada on February 12, 1996, as amended and which was ratified on behalf of the Government of Canada by the *First Nations Land Management Act*; and

Whereas Henvey Inlet First Nation wishes to manage its lands 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 HENVEY INLET FIRST NATION.

PART 1 PRELIMINARY MATTERS

1 Title

TITLE

1.01 The title of this enactment is the Henvey Inlet First Nation Land Code.

2 Interpretation

FAIR INTERPRETATION

2.01 This Land Code *shall* be interpreted in a manner that is consistent with the *Framework Agreement*, and *shall* be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

DEFINITIONS

2.02 The following definitions apply in this Land Code:

“Abrogate” means to abolish by authoritative action, annul;

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

“Certificate of Entitlement” means a permanent Interest in land granted to Members in accordance with the Henvey Inlet First Nation Land Code;

“Certificate of Possession” means a permanent Interest in land issued to Members in accordance with the *Indian Act*;

“Commercial Purposes” means a use of community lands intended to produce income for Henvey Inlet First Nation and persons who may have an Interest or Licence therein;

“Community Lands” means any Henvey Inlet First Nation Land in which all Members have a common interest;

“Community Meeting of Members” means a meeting under Part 3 of this Land Code to which the Members are entitled to attend;

“Council” means the Chief and Council of Henvey Inlet First Nation or any successor elected government of the Henvey Inlet First Nation;

“Derogate” means to take away a part so as to impair, detract;

“Eligible Voter” means a person who is a Member, and who, at the time of voting, will have attained the age of eighteen years;

“Extended Family”, in respect of a person, means the person’s grandparent, uncle, aunt, first degree cousin, grandchild and/or any other relation or relationship that Council may add by law;

“First Nation Land Register” means the register maintained by the Department of Aboriginal Affairs and Northern Development Canada pursuant to the *Framework Agreement* to register Interests in First Nation land;

“Framework Agreement” means the *Framework Agreement on First Nation Land Management* concluded between Her Majesty in right of Canada and certain First Nations on 12 February 1996, as amended, which was ratified by Canada by the *First Nations Land Management Act*, S.C. 1999 c. 24;

“Henvey Inlet First Nation” means the Henvey Inlet First Nation and its Members;

“Henvey Inlet First Nation Land” means any reserve land that is subject to this Land Code;

“Henvey Inlet Land Register” means the land register maintained by Henvey Inlet First Nation pursuant to Part 6 of this Land Code for the purpose of registering Interests in Henvey Inlet First Nation Land;

“Immediate Relatives”, in respect of a person, means the person’s parent, sister, brother, child, Spouse, and includes persons falling within such relationships by customary law including custom adoption;

“Individual Agreement” means the Individual Transfer Agreement or Transfer Agreement made between Henvey Inlet First Nation and her Majesty in right of Canada, in accordance with section 6.1 of the *Framework Agreement*, as amended from time to time;

“Interest”, in relation to First Nation land, means any Interest, right or estate of any nature in or to that land, including a lease, easement, right of way, servitude, or *profit à prendre*, but does not include title to that land;

“Land Code” means the Henvey Inlet First Nation Land Code;

“Land Law” means a law, including, but not limited to, policies, regulations, standards, restricted to Henvey Inlet First Nation Land, enacted by the Council of Henvey Inlet First Nation in accordance with this Land Code;

“Lands Advisory Committee” means the committee established under Part 6 of this Land Code;

“Licence”, in relation to First Nation Land, means any right of use or occupation of that First Nation land, other than an Interest in that land;

“Member” means a person whose name appears on the band list of Henvey Inlet First Nation or who is entitled to have his or her name appear on that list;

“Minister” means the Minister of Indian Affairs and Northern Development Canada, or such other member of the Queen’s Privy Council as is designated by the Governor in Council for the purposes of the *Framework Agreement*;

“Ratification Vote” means a vote of Eligible Voters under section 15 of this Land Code;

“Riparian Rights” means the legal rights of owners of land bordering on a river or other body of water. Also, law that pertains to use of the water for that land;

“Roster Panel” means the list of Panelists established under section 41 of this Land Code;

“Spousal Property” means any Interest in Henvey Inlet First Nation Land belonging to one or both persons who are Spouses of one another;

“Spouse” means a person who is married to another, whether by a traditional customary, religious or civil ceremony, and includes each of two persons living together in a conjugal relationship outside of marriage.

CLARIFICATION

2.03 Words or terms used but not expressly defined in this Land Code but which are defined in the *Framework Agreement shall* have the same meaning as in the *Framework Agreement*, unless the context otherwise requires.

USE OF THE WORD “SHALL.”

2.04 The word “*shall*” signifies an obligation that, unless this Land Code provides to the contrary, must be carried out as soon as practicable after this Land Code comes into effect or the event that gives rise to the obligation.

USE OF MASCULINE OR FEMININE

2.05 Unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine.

TITLES AND HEADINGS

2.06 Titles and headings of Parts and provisions have been inserted in the Land Code for convenience of reference only, and are not interpretive aids.

LAND AND INTERESTS AFFECTED

2.07 A reference to Henvey Inlet First Nation Land in this Land Code means all rights and resources in and of the Land, and includes:

- a) the water, beds underlying water, Riparian Rights, and renewable, and non-renewable natural resources in and of that land, to the extent that these are under the jurisdiction of Canada; and
- b) all the Interests and Licenses granted to Henvey Inlet First Nation by Canada listed in the Individual Agreement.

3 Authority to Govern

ORIGIN OF AUTHORITY

3.01 The traditional teachings of Henvey Inlet First Nation speak of the obligation of the people of Henvey Inlet First Nation to care for and respect the land and the magnificent wonders of Nature created on the land. By enacting this Land Code, Henvey Inlet First Nation is renewing this special responsibility.

FLOW OF AUTHORITY

3.02 The authority of Henvey Inlet First Nation to govern its lands and resources flows from the Creator to the people of Henvey Inlet First Nation, and from the people to the Council.

4 Conflict of Laws

PARAMOUNTCY

4.01 This Land Code prevails over any inconsistent provision in any other enactment of Henvey Inlet First Nation, to the extent of the inconsistency.

NON-ABROGATION, NON-DEROGATION

4.02 Nothing in this Land Code Abrogates or Derogates from:

- a) the by-law powers of the Council of Henvey Inlet First Nation pursuant to the *Indian Act*;
- b) the aboriginal title or the aboriginal, or treaty or inherent rights of Henvey Inlet First Nation; or
- c) the special relationship between Canada and Henvey Inlet First Nation and its Members.

5 Purpose

PURPOSE

5.01 The purpose of this Land Code is to set out the principles, guidelines and processes by which Henvey Inlet First Nation will exercise control over its lands and resources pursuant to the *Framework Agreement on First Nation Land Management*, as amended.

RATIFICATION

5.02 The *Framework Agreement* is ratified and confirmed when this Land Code takes effect.

6 Lands that are subject to this Land Code

LANDS AND INTERESTS TO WHICH LAND CODE APPLIES

6.01 The Henvey Inlet First Nation Land that is subject to this Land Code is that description of reserve lands known as French River Indian Reserve #13 and Henvey Inlet Indian Reserve #2 as amended from time to time.

AMENDMENT OF S.6.01

6.02 Henvey Inlet First Nation Land includes all reserve lands listed in the Individual Agreement and such other lands as may be described in the Individual Agreement as amended from time to time.

6.03 Council *shall* receive community input, in accordance with section 12, prior to the addition of reserve lands to the Land Code.

6.04 For greater certainty, a Community Approval or Ratification Vote *shall* not be required for amending the description of reserve lands in the Land Code and Individual Agreement as amended from time to time.

6.05 Council may by resolution declare the land or Interest to be subject to this Land Code.

PART 2 FIRST NATION LEGISLATION

7 Law-making authority

COUNCIL MAY MAKE LAND LAWS

7.01 The Council may, in accordance with this Land Code, make Land Laws respecting:

- a) the development, conservation, protection, management, use and possession of Henvey Inlet First Nation Land;
- b) Interests and Licenses in relation to Henvey Inlet First Nation Land; and
- c) any matter necessary or ancillary to the making of Land Laws in relation to Henvey Inlet First Nation Land.

EXAMPLES OF LAND LAWS

7.02 For greater certainty, Council may make Land Laws including, but not limited to:

- a) regulation, control and prohibition of zoning, land use, subdivision control and land development;
- b) creation, regulation and prohibition of Interests and Licenses in relation to Henvey Inlet First Nation Land;
- c) environmental assessment and protection;
- d) provision of local services in relation to Henvey Inlet First Nation Land and the imposition of equitable user charges;
- e) enforcement of Henvey Inlet First Nation Land Laws; and
- f) provision of services for the resolution, outside the courts, of disputes in relation to Henvey Inlet First Nation Land.

7.03 For greater certainty, in addition to Land Laws, Council may also develop instruments including, but not limited to, a regulation, a standard, a code, and a policy.

8 Law-making Procedure

INTRODUCTION OF LAWS

8.01 A proposed Land 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; or
- c) any Eligible Voter.

CONTENT OF LAND LAW PROPOSAL

8.02 A Land Law proposal *shall* contain a statement of the purposes and benefits to the First Nation of the proposed Land Law.

COUNCIL PROCEDURE UPON RECEIPT OF LAND LAW PROPOSAL

8.03 Upon receipt of a Land Law proposal, Council may:

- a) table the Land Law proposal for further review or for enactment;
- b) request that the proposer provide further information or attend before a future meeting of Council to speak to the Land Law proposal;
- c) undertake or direct the preparation of a draft Land Law concerning matters raised in the Land Law proposal, for consideration by Council; or
- d) decline the Land Law proposal.

LANDS ADVISORY COMMITTEE REVIEW AND REPORT

8.04 The Council *shall* provide the proposal to the Lands Advisory Committee. The Lands Advisory Committee *shall* review a Land Law proposal and produce a written report to Council, which *shall* be made available to the proposer and to the community generally.

TABLING AND POSTING OF PROPOSED LAND LAWS

8.05 A proposed Land Law may only be enacted if:

- a) a draft of the Land Law has been tabled at a meeting of the Council held at least 42 days before the Land Law is to be enacted;
- b) the draft Land Law has been posted in the administrative offices of Henvey Inlet First Nation, in a location accessible to any Eligible Voter, at least 35 days before the Land Law is to be enacted; and
- c) the draft Land Law has been distributed to Eligible Voters and published on a website maintained by Henvey Inlet First Nation and open to access by any Eligible Voter, at least 35 days before the Land Law is to be enacted; and
- d) a notice of the Council meeting at which the Land Law will be considered for enactment, including a brief description of the purpose of the proposed Land Law, has been published in a newsletter having circulation to all Henvey Inlet First Nation Members at least 35 days prior to the Council meeting.

APPROVAL OF LAND LAW BY COUNCIL

8.06 A Land Law is enacted if it is approved by a majority of the Council at a meeting of the Council open to the Members.

CERTIFICATION OF LAND LAWS

8.07 Two official true copies of any Land Law or resolution concerning Henvey Inlet First Nation Land *shall* be signed and witnessed by a quorum of the Council present at the meeting at which it was enacted and delivered to the Lands Advisory Committee.

OFFICIAL TRUE COPIES OF LAND LAWS

8.08 An official true copy of a Land Law certified by and duly authorized by resolution of Council for such purpose *shall* be an official copy for all purposes of this Land Code.

EMERGENCY LAND LAWS

8.09 Notwithstanding any other provision of this Land Code, the Council may enact a Land Law without the preliminary steps required under section 8.05, if the Council is of the opinion that the Land Law is needed urgently to protect Henvey Inlet First Nation Land or the Members, but the Land Law expires 120 days after its enactment, unless re-enacted in accordance with section 8.05.

9 Commencement and Publication of Land Laws

LAWS TAKING EFFECT

9.01 A Land Law enacted by the Council takes effect on the date of its enactment or such later date as specified by or under the Land Law.

PUBLICATION

9.02 Land Laws enacted pursuant to this Land Code *shall* be published:

- a) in the minutes of the Council meeting at which it was enacted;

- b) by the Lands Advisory Committee in minutes of the Lands Advisory Committee meeting at which an official true copy of the Land Law is noted as received;
- c) by posting an official true copy of the Land Law in a location within the administrative offices of Henvey Inlet First Nation accessible to all Members, as soon as practical after enactment and for a period of not less than thirty days thereafter.

LAND LAW REGISTER

9.03 Council *shall* cause to be established and maintained, at the administrative offices of Henvey Inlet First Nation, a register of official true copies of all Land Laws and resolutions, including Land Laws and resolutions that have been repealed or are no longer in force.

ACCESS TO LAND LAW REGISTER

9.04 Any person may attend at the register during normal business hours and may view or obtain a copy of any Land Law.

FEES

9.05 Council may from time to time by resolution set fees for viewing or obtaining copies of Land Laws.

10 Enforceability of Land Laws

ENFORCEABILITY OF LAND LAWS

- 10.01 To enforce its Land Code and its Land Laws, Henvey Inlet First Nation *shall* have the power to:
- a) establish offences that are punishable on summary conviction;
 - b) provide for fines, imprisonment, restitution, community service, and alternate means for achieving compliance; and
 - c) establish comprehensive enforcement procedures consistent with federal law, including inspections, searches, seizures and compulsory sampling, testing and the production of information.

PART 3 COMMUNITY INVOLVEMENT

11 Participation of Members

PARTICIPATION OF MEMBERS

11.01 Every Member is entitled to participate in the community consultation processes set out in Part 3 of this Land Code.

PARTICIPATION OF ELIGIBLE VOTERS

11.02 Every Eligible Voter is entitled to participate in the community approval processes set out in Part 3 of this Land Code.

12 Community Input

COMMUNITY INPUT OF MEMBERS

12.01 The Council *shall* consult with Members at a Community Meeting of Members prior to the enactment of a Land Law:

- a) respecting a community plan or subdivision plan;
- b) affecting a heritage site or an environmentally sensitive property;
- c) respecting environmental assessment and protection;
- d) respecting the transfer and assignment of rights and Interests in Henvey Inlet First Nation Land;
- e) respecting Spousal Property on Henvey Inlet First Nation Land under section 38;
- f) respecting the rate and criteria for the payment of fees or rent for Henvey Inlet First Nation Land;
- g) respecting the rights and procedures on community expropriation; and
- h) respecting any other matter, Land Law or class of law that Council, by resolution, declares to be subject to this section.

NO QUORUM

12.02 For greater certainty, community input for consultation purposes does not require a quorum of Members.

PROCESS TO IMPLEMENT LAND LAWS

12.03 The Lands Advisory Committee, within a reasonable time after this Land Code takes effect, *shall* advise Council on establishing a community process to develop and implement the Land Laws referred to in section 12.01.

13 Community Approval

COMMUNITY APPROVAL OF MEMBERS

13.01 Community approval at a Community Meeting of Members must be obtained for the following:

- a) any Master Land Use Plan;
- b) any new grant or disposition of an Interest or License to a non-member in any Henvey Inlet First Nation Land exceeding a term of thirty-five (35) years;
- c) any renewal of a grant or disposition of an Interest or License to a non-member in any Henvey Inlet First Nation Land that extends the original term beyond thirty-five (35) years;
- d) any grant or disposition of any non-renewable natural resources on any Henvey Inlet First Nation Land exceeding a term of five (5) years;
- e) any deletion of a heritage site referred to in section 17 of this Land Code;
- f) any voluntary exchange of Henvey Inlet First Nation Land referred to in section 18 of this Land Code; and
- g) any matter, Land Law or class of law that Council, by resolution, declares to be subject to this section.

METHOD OF VOTING

13.02 Community approval may be obtained by various methods, including but not limited to:

- a) secret ballot;
- b) show of hands;
- c) mail in ballot; or
- d) any other method outlined in voting policies.

13.03 For greater certainty, Council may determine that the Community Approval vote may be achieved by calling for a Community Meeting of Members, by calling for a vote and establishing voting days and polling locations, by calling for a mail-in ballot community vote, or any other method outlined in 13.02.

QUORUM

13.04 The quorum for Community Approvals under this Land Code is ten percent (10%) of Eligible Voters.

VOTING

13.05 For Community Approvals, decisions may be made by a majority vote of fifty percent plus one (50% + 1) of the Eligible Voters casting a vote, provided that there is a quorum of Eligible Voters participating in the vote.

SECOND COMMUNITY APPROVAL VOTE

13.06 If a quorum was not obtained pursuant to section 13.04 a second Community Approval vote may be called.

SECOND ATTEMPT AT COMMUNITY APPROVAL VOTE QUORUM

13.07 The quorum for a second attempt at a Community Approval Vote under this Land Code is five percent (5%) of Eligible Voters.

VOTING

13.08 For a quorum of Eligible Voters for a second attempt at a Community Approval Vote, decisions may be made by a majority vote of fifty percent plus one (50% + 1) of the Eligible Voters casting a vote.

THIRD COMMUNITY APPROVAL VOTE

13.09 If a quorum was not obtained pursuant to sections 13.07 a third Community Approval vote may be called without any quorum requirement.

VOTING

13.10 For a third attempt at a Community Approval Vote, decisions may be made by a majority vote of fifty percent plus one (50% + 1) of the Eligible Voters casting a vote.

14 Procedure for a Community Meeting of Members

NOTICE OF MEETING FOR COMMUNITY MEETING OF MEMBERS

14.01 The Council *shall* give written notice for a Community Meeting of Members that *shall* include:

- a) the date, time and place of the meeting;
- b) a brief description of the matters to be discussed and decided on at the meeting;
- c) the name and telephone number of a contact person;
- d) a feedback form which any person entitled to participate may submit to the Lands Advisory Committee for review, and forwarded to Council in lieu of or in addition to attending at the meeting; or
- e) feedback by such additional methods, if any, as Council and Lands Advisory Committee may consider appropriate.

MANNER OF NOTICE

14.02 The notice for a Community Meeting of Members must be given to the Members by:

- a) posting the notice in public places on Henvey Inlet First Nation Land at least forty two (42) working days before the meeting;
- b) mailing the notice to Members and taking reasonable steps to locate and inform Members who reside on and off-reserve at least forty two (42) working days before the meeting;
- c) posting the notice on a website maintained by Henvey Inlet First Nation that is open and accessible by any person who may be entitled to attend the meeting at least forty two (42) working days before the meeting;
- d) publishing the notice in the community newsletter or local newspaper at least thirty five (35) working days before the meeting; and
- e) such additional method as Council may consider appropriate in the circumstances.

PERMISSION OF COUNCIL

14.03 A person, other than a Member, may attend a Community Meeting of Members only with permission of Council.

OTHER MEETINGS

14.04 The Council may schedule more than one Community Meeting of Members to discuss and decide on a matter that requires a Community Meeting of Members without the time requirements under section 14.02.

OTHER LAND LAWS

14.05 For greater certainty, the Council may make Land Laws respecting Community Meeting of Members.

15 Ratification Votes

COMMUNITY APPROVAL BY RATIFICATION VOTE

15.01 Community approval by a Ratification Vote must be obtained for an amendment to this Land Code.

EXCEPTIONS

15.02 A Community Approval or Ratification Vote *shall* not be required for:

- a) an amendment to s. 6.01 of this Land Code;
- b) revisions to this Land Code made pursuant to section 51; and
- c) an amendment to, or renewal of, the Individual Agreement.

OTHER MATTERS

15.03 For greater certainty, Council may, by resolution, declare a matter, a Land Law or a class of law, to be subject to this section.

RATIFICATION PROCESS

15.04 Any Ratification Vote required under this Land Code *shall* be conducted in substantially the same manner as the *Henvey Inlet First Nation Community Ratification Process*, which was used to ratify this Land Code.

NO VERIFIER

15.05 A verifier is not required in any Ratification Vote under this Land Code.

QUORUM

15.06 In order to obtain a quorum for community approval by Ratification Vote under this Land Code at least twenty-five percent (25%) of Eligible Voters must register.

MINIMUM REQUIREMENTS FOR APPROVAL

15.07 If a quorum of at least 25% of Eligible Voters register, a matter *shall* be considered approved at a Ratification Vote if a majority of fifty percent plus one (50% + 1) of the registered Eligible Voters cast a vote in favour of the matter.

REJECTED BY MAJORITY VOTE

15.08 If a quorum of at least 25% of Eligible Voters register, a matter *shall* be considered not approved at a Ratification Vote if a majority of fifty percent plus one (50% + 1) of the registered Eligible Voters cast a vote in opposition of the matter.

NO SECOND RATIFICATION VOTE IF REJECTED

15.09 If the matter is rejected pursuant to section 15.08, the matter, Land Law, class of law, or the amendment to the Land Code *shall* not be executed, *shall* have no effect and *shall* not be submitted for a second Ratification Vote. The document may be re-submitted for a Ratification Vote under section 15.06 provided additional community consultation occurs, community direction is obtained to re-draft and the document is re-drafted accordingly.

SECOND RATIFICATION VOTE

15.10 If a quorum was not obtained pursuant to section 15.06 a second Ratification Vote may be called.

REDUCED QUORUM FOR SECOND RATIFICATION VOTE

15.11 In order to obtain a quorum for community approval by a second Ratification Vote under this Land Code at least ten percent (10%) of Eligible Voters must register.

VOTING

15.12 If a quorum of at least 10% of Eligible Voters register, a matter *shall* be considered approved at a second Ratification Vote if a majority of fifty percent plus one (50% + 1) of the registered Eligible Voters cast a vote in favour of the matter.

NO THIRD RATIFICATION VOTE

15.13 If the required quorum pursuant to section 15.11 is not obtained, the matter, Land Law, class of law, or the amendment to the Land Code *shall* not be executed, *shall* have no effect and *shall* not be submitted for a third Ratification Vote. The document may be re-submitted for a Ratification Vote under section 15.06 provided additional community consultation occurs, community direction is obtained to re-draft and the document is re-drafted accordingly.

OTHER LAWS

15.14 For greater certainty, the Council may make Land Laws respecting Ratification Votes.

PART 4
PROTECTION OF LAND

16 Expropriation

ACQUISITION BY MUTUAL AGREEMENT

16.01 The right of Henvey Inlet First Nation to expropriate can only be exercised after a good faith effort to acquire, by mutual agreement, the Interest or License in Henvey Inlet First Nation Land.

RIGHTS AND INTEREST THAT MAY BE EXPROPRIATED

16.02 An Interest or License in Henvey Inlet First Nation Land, or in any building or other structure on those Lands, may only be expropriated by Henvey Inlet First 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

16.03 A community expropriation *shall* only be made for a necessary community purpose or works of Henvey Inlet First Nation, including but not limited to: a fire hall, sewage or water treatment facility, community centre, public works, roads, schools, day-care facility, hospitals, health-care facility, and retirement home.

EXPROPRIATION LAWS

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

- a) the taking of possession of the Interest or License;
- b) transfer of the Interest or License;
- 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.

MEMBER NOTIFICATION

16.05 In the case of an expropriation of a Member's Interest in Henvey Inlet First Nation Land, the affected Member or Members must receive notification of the expropriation within a reasonable time prior to the release of the public report referred to in section 16.06.

PUBLIC REPORT

16.06 Before Henvey Inlet First Nation decides to expropriate an Interest or License, it *shall* make a public report on the reasons justifying the expropriation.

COMPENSATION FOR RIGHTS AND INTERESTS

16.07 Henvey Inlet First Nation *shall*, in accordance with its Land Laws and the *Framework Agreement*:

- a) serve reasonable notice of the expropriation on each affected holder of the Interest or License to be expropriated; and
- b) pay fair and reasonable compensation to the holders of the Interest or License being expropriated.

COMPENSATION CALCULATIONS

16.08 Henvey Inlet First Nation *shall* calculate the total value of the compensation under this section based on the heads of compensation set out in the *Expropriation Act* (Canada).

MARKET VALUE

16.09 The “market value” of an expropriated Interest or License is equal to the amount that would have been paid for the Interest or License if it had been sold by a willing seller to a willing buyer under no duress.

NEUTRAL EVALUATION TO RESOLVE DISPUTES

16.10 The resolution of disputes concerning the right of Henvey Inlet First Nation to expropriate *shall* be determined by neutral evaluation, in the same manner as provided in Part IX of the *Framework Agreement*, and the sixty (60) day period referred to in clause 32.6 of the *Framework Agreement shall* be applied, as appropriate in the circumstances, by the neutral evaluator.

ARBITRATION TO RESOLVE DISPUTES

16.11 The resolution of the following disputes *shall* be determined by arbitration, in the same manner as provided in Part IX of the *Framework Agreement*:

- a) disputes concerning the right of the holder of an expropriated Interest or License to compensation; and
- b) disputes concerning the amount of the compensation.

17 Heritage Sites

COMMUNITY INPUT ON DEVELOPMENT

17.01 No development *shall* be allowed on any site designated as a heritage site under the land use plan, unless the community is consulted on the development plan, provided however that no development *shall* be permitted on any site designated by Land Law as a permanently protected site.

COMMUNITY APPROVAL FOR AMENDMENT TO LAND USE PLAN

17.02 No amendment may be made to a land use plan to delete a heritage site unless the amendment receives confirmation by community approval.

18 Voluntary Land Exchanges and Protections

CONDITIONS TO A LAND EXCHANGE

18.01 Henvey Inlet First Nation may agree with a third party to exchange a parcel of Henvey Inlet First Nation Land for a parcel of land from that other party in accordance with this Land Code and the *Framework Agreement*.

NO EFFECT

18.02 A land exchange is of no effect unless it receives community approval at a Community Meeting of Members.

LAND TO BE RECEIVED

18.03 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 Henvey Inlet First Nation Land to be exchanged;
- b) it must be at least comparable to the appraised value of the Henvey Inlet First Nation Land for which it is to be exchanged; and
- c) it must receive reserve status and become Henvey Inlet First Nation Reserve Land subject to this Land Code.

NEGOTIATORS

18.04 The person or persons who *shall* have authority to negotiate a land exchange agreement on behalf of Henvey Inlet First Nation must be designated by resolution.

ADDITIONAL LAND

18.05 Henvey Inlet First 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 in section 18.03 above which is intended to become a reserve. Such other parcels of land may be held by Henvey Inlet First Nation in fee simple or some other manner.

FEDERAL CONSENT

18.06 Before Henvey Inlet First Nation concludes a land exchange agreement, it must receive a written statement from Canada clearly stating that 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 later date as the Council may specify by resolution; and
- b) consents to the manner and form of the exchange as set out in the exchange agreement.

COMMUNITY NOTICE

18.07 Once negotiations on the land exchange agreement are concluded, the Council/Lands Advisory Committee *shall* provide the following information to Eligible Voters at least forty two (42) consecutive days before the vote:

- a) a description of the Henvey Inlet First 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 received;
- d) a report of a certified land appraiser setting out that the conditions in section 18.03 have been met;
- e) a copy or summary of the exchange agreement; and
- f) a copy of the consent referred to in section 18.06.

PROCESS OF LAND EXCHANGE

18.08 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 Henvey Inlet First Nation Land being exchanged, in accordance with the exchange agreement;
- c) a copy of the instruments transferring title to the relevant parcels of land must be registered in the Henvey Inlet Land Register and a copy sent to the First Nation Lands Register; and
- d) the land to be set apart as a reserve has been subject to an environmental audit, and clearance or remediation as necessary, or that Council is satisfied that adequate provision has been made for such clearance or remediation at no cost to Henvey Inlet First Nation and with full indemnification to Henvey Inlet First Nation.

PART 5
ACCOUNTABILITY

19 Conflict of Interest

APPLICATION OF RULES

19.01 The rules in section 19.02 apply to the following persons:

- a) each member of the Council who is dealing with any matter before Council that is related to Henvey Inlet First Nation Land;
- b) each person who is an employee of Henvey Inlet First Nation dealing with any matter that is related to Henvey Inlet First Nation Land; and
- c) each person who is a member of a board, committee or other body of Henvey Inlet First Nation dealing with any matter that is related to Henvey Inlet First Nation Land.

DUTY TO REPORT AND ABSTAIN

19.02 If there is any financial, familial or personal conflict of interest in the matter being dealt with, the person:

- a) *shall* disclose the interest to the Council, or the board, committee or other body as the case may be;
- b) *shall* not take part in any deliberations on that matter or vote on that matter; and
- c) *shall* remove themselves from the proceedings.

COMMON INTERESTS

19.03 Section 19.02 does not apply to any Interest that is held by a Member in common with every other Member.

INABILITY TO ACT

19.04 If the board, committee or other body is unable to act due to a conflict of interest, the matter *shall* be referred to the Council.

MEETING OF ELIGIBLE VOTERS

19.05 If the Council is unable to vote on a proposed Land Law or resolution due to a conflict of interest, the Council may refer the matter to a Community Meeting of Members and, if a quorum of Eligible Voters is present, a majority of the Eligible Voters present at the meeting may enact the Land Law or resolution.

SPECIFIC CONFLICT SITUATIONS

19.06 No Immediate Relatives and not more than two (2) Members from the same Extended Family *shall* be concurrent Members of an appointed board, committee or other body dealing with any matter that is related to Henvey Inlet First Nation Land.

ELECTED BODY

19.07 For greater certainty, the Council or any other elected board, committee or body is not included under the rule set out in 19.06.

DISPUTES

19.08 Questions about whether a breach of this section has occurred may be referred to the Roster Panel.

OTHER LAWS

19.09 For greater certainty, the Council may enact laws to further implement this section.

20 Financial Management

APPLICATION

20.01 This section applies only to financial matters relating to Henvey Inlet First Nation Land.

ESTABLISHMENT OF BANK ACCOUNTS

20.02 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 of Henvey Inlet First Nation Land;
- b) monies received by Henvey Inlet First Nation from the grant or disposition of any Interests or Licenses in Henvey Inlet First Nation Land;
- c) all fees, fines, charges and levies collected under a Land Law or resolution;
- d) all capital and revenue monies received from Canada from the grant or disposition of any Interests and Licenses in Henvey Inlet First Nation Land; and
- e) any other Land revenue received by Henvey Inlet First Nation.

ADOPTION OF BUDGET

20.03 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

20.04 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 of Members; and
- b) make a copy of the budget or supplementary budget available at the administrative offices of Henvey Inlet First Nation for inspection by Members at reasonable hours.

IF NO BUDGET

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

BUDGET RULES

20.06 The Council may make rules respecting the preparation and implementation of Land management budgets.

EXPENDITURES

20.07 The Council *shall* not expend monies related to Henvey Inlet First Nation Land or commit itself, by contract or otherwise, to expend monies related to Henvey Inlet First Nation Land, unless the expenditure is authorized by or under a Land Law or an approved budget.

FINANCIAL POLICY

20.08 The Henvey Inlet First Nation may, in accordance with this Land Code, adopt a financial policy to further manage monies related to Henvey Inlet First Nation Land.

21 Audit

HOLDING OFFICE

21.01 The auditor appointed under this section holds office until reappointed, or replaced by resolution of Council.

VACANCY IN OFFICE

21.02 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

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

ACCESS TO RECORDS

21.04 The auditor may at all reasonable times inspect any financial records of Henvey Inlet First Nation and any person or body who administers money on behalf of Henvey Inlet First Nation.

22 Annual Report

CONTENTS

22.01 The annual report will include:

- a) an annual review of Henvey Inlet First Nation Land management;
- b) a financial statement and the most recent auditor's report;
- c) a copy and explanation of the audit as it applies to Henvey Inlet First Nation Land; and
- d) any other matter which Council or the Lands Advisory Committee deems relevant to Members in relation to the Land Code.

PRESENTATION OF ANNUAL REPORT TO MEMBERS

22.02 Within 90 days of publication of the annual report, Council *shall* convene a Community Meeting of Members for the purpose of presenting the annual report, including the auditor's report, to the Members, for information purposes.

23 Access to information

ACCESS

23.01 Any Members may, during normal business hours at the main administrative office of Henvey Inlet First Nation, have reasonable access to:

- a) the register of Land Laws;

- b) the most-recent auditor's report;
- c) the most-recent annual report; and
- d) the auditor's report and annual reports for each of the previous six years.

COPIES FOR MEMBERS

23.02 Any Member, upon written request and proof of membership, may obtain a copy of the auditor's report or annual report, subject to such reasonable fees for retrieval and copying as may be set by resolution of Council.

ACCESS TO RECORDS

23.03 Any person who is not a Member, with the authorization of Council, may at any reasonable time inspect the financial records of Henvey Inlet First Nation related to Henvey Inlet First Nation Land.

PART 6
LAND ADMINISTRATION

24 Lands Staff

ADMINISTRATION

24.01 Council may delegate administrative authority to staff to carry out functions necessary for day to day administrative operations of lands and resources.

25 Lands Advisory Committee

LANDS ADVISORY COMMITTEE ESTABLISHED

25.01 The Lands Advisory Committee is hereby established for the following purposes:

- a) assist with the development of the land administration system;
- b) advise the Council and its staff on matters respecting Henvey Inlet First Nation Land;
- c) to recommend Land Laws, resolutions, policies and practices respecting Henvey Inlet First Nation Land to the Council;
- d) to consult with the individuals and the community on Henvey Inlet First Nation Land issues, and to make recommendations on the resolution of those issues to Council;
- e) to manage and oversee Ratification Votes, community approvals, and community input meetings; and
- f) to perform such other duties as may be assigned to the Lands Advisory Committee by resolution or Land Law enacted under this Land Code.

26 Implementation of Lands Advisory Committee

FIRST LANDS ADVISORY COMMITTEE

26.01 Immediately upon the coming into effect of this Land Code, Council *shall* select a Lands Advisory Committee to serve for a term of three years until a policy governing the Lands Advisory Committee comes into force.

POLICY GOVERNING SUCCESSORS TO THE FIRST LANDS ADVISORY COMMITTEE

26.02 As soon as possible after the coming into force of this Land Code, Council, in consultation with the Lands Advisory Committee, *shall* develop a policy providing for community involvement in the

selection, election, or appointment of Eligible Voters to serve on the Lands Advisory Committee, and dealing with such matters as number of members, composition, Chair and Deputy Chair, functions of the Chair, term of office, remuneration, conditions of service, termination of membership, vacancies arising during term and such other matters as Council deems appropriate to the operation of the Lands Advisory Committee.

LANDS ADVISORY COMMITTEE WORK-PLAN

26.03 Within a reasonable time after this Land Code takes effect, the Lands Advisory Committee *shall*, in consultation with Council and the community, ensure that rules and procedures are developed that address the following matters:

- a) terms of reference for the procedure for meetings of the Lands Advisory Committee, and generally for the conduct of its affairs, not inconsistent with those established by the Council;
- b) the process for determining the fees and rent for Interests and Licences in Community Lands, and the fees for services provided in relation to Henvey Inlet First Nation Land;
- c) the process for determining the fees and royalties for the taking of natural resources on Henvey Inlet First Nation Land;
- d) environmental protection and assessment in relation to Henvey Inlet First Nation Land;
- e) any outstanding disputes in relation to Henvey Inlet First Nation Land;
- f) land use planning and zoning; and
- g) respecting Spousal Property Law ; and
- h) any other matter referred by Council.

HOW POLICIES WILL BE GIVEN EFFECT

26.04 Rules and procedures developed by the Lands Advisory Committee *shall* be presented to Council for consideration and implementation as policies, Land Laws or amendments to this Land Code, whichever is most appropriate.

27 Registration of Interests and Licences

ENFORCEMENT OF INTERESTS AND LICENCES

27.01 An Interest or License in Henvey Inlet First Nation Land created or granted after this Land Code takes effect is not enforceable unless it is registered in the First Nations Land Register.

CERTIFICATION

27.02 An instrument that requires the consent of the Council, or community approval, *shall* be of no force or effect unless a certified copy of the document that indicates the consent or approval is attached.

DUTY TO DEPOSIT

27.03 The Council *shall* ensure that an original copy of the following instruments is deposited in the First Nations Land Register:

- a) any grant of an Interest or License in Henvey Inlet First Nation Land;
- b) any transfer or assignment of an Interest in Henvey Inlet First Nation Land;
- c) every land use plan, subdivision plan or resource plan; and
- d) this Land Code and any amendment to this Land Code.

HENVEY INLET LAND REGISTER

27.04 The Council may establish and maintain the Henvey Inlet Land Register.

27.05 Every person who receives an Interest in, or Licence to use, Henvey Inlet First Nation Land *shall* deposit an original copy of the relevant instrument in the Henvey Inlet Land Register, if a Register is established.

PART 7 INTERESTS AND LICENCES IN LAND

28 Formalities of Grants, Transfers, and other Transactions

LAND TRANSACTIONS TO BE IN WRITING

28.01 An Interest in, or License to use, Henvey Inlet First Nation Land *shall* only be created, granted, disposed of, assigned, transferred or otherwise affected only by an instrument in writing in accordance with this Land Code.

FORMS AND PROCEDURES

28.02 Council, on the advice of the Lands Advisory Committee, may prescribe forms and procedures for the creation, granting, transfer, assignment or other disposition of Interests and Licenses in Henvey Inlet First Nation Land.

NON-CONFORMING TRANSACTIONS VOID

28.03 After the date that this Land Code takes effect, any deed, lease, contract, instrument, document, or agreement of any kind, whether written or oral, by which Henvey Inlet First Nation, a Member or any other person purports to grant, dispose of, transfer or assign an Interest or License in Henvey Inlet First Nation Land is void unless it complies with this Land Code.

29 Existing Interests

CONTINUATION OF EXISTING INTERESTS

29.01 Interests and Licenses in relation to Henvey Inlet First Nation Land that exist on the coming into force of this Land Code continue in accordance with their terms and conditions.

29.02 A policy *shall* be established as soon as practical after the coming into force of the Land Code to accommodate unregistered Interests.

30 New Interests and Licences

AUTHORITY TO MAKE DISPOSITIONS

30.01 Subject to the provisions of this Land Code, Council on behalf of Henvey Inlet First Nation may create or grant:

- a) Interests and Licenses in Community Lands;
- b) permits to take resources from Community Lands, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances.

CONDITIONAL GRANT

30.02 The grant of an Interest or Licence may be made subject to the satisfaction of written conditions.

31 Interests of non-members

NON-MEMBERS

31.01 A person who is not a Member of Henvey Inlet First Nation *shall* not hold a permanent Interest in Henvey Inlet First Nation Land.

GRANTS TO NON-MEMBERS

31.02 A transfer or other disposition of all or any part of a lease or License in Henvey Inlet First Nation Land to a person who is not a Member *shall* not be effective unless and until it is confirmed by a resolution of Council, adopted with the advice of the Lands Advisory Committee.

32 Certificates of Possession or other Interests

APPLICATION

32.01 Certificates of Possession and other Interests issued under the *Indian Act* prior to the coming into force of this Land Code *shall* continue in accordance with their original terms and conditions, until surrender or termination, but all transfers *shall* be subject to this Land Code.

33 Allocation of Land to Members

POLICIES AND PROCEDURES FOR ALLOCATION OF LAND

33.01 Subject to the provisions of this Land Code, Council in consultation with the Lands Advisory Committee may establish policies and procedures for the allocation of Land to Members.

ALLOCATION

33.02 Council may, in accordance with this Land Code:

- a) allocate Land to Members; or
- b) issue a Certificate of Entitlement to a Member for Land allocated to that Member.

NATURE OF INTEREST IN CP OR CE

33.03 Subject to this Land Code and Land Laws, a Certificate of Possession (CP) or Certificate of Entitlement (CE) in respect of a parcel of Land is an Interest that *shall* entitle the Member holding it to:

- a) exclusive possession of the Land in perpetuity;
- b) benefit from the resources arising from the Land;
- c) transfer, devise or otherwise dispose of the CP or CE to another Member;
- d) any other rights consistent with this Land Code that Council may grant by way of Land Law or resolution.

NO ALLOCATION OF LAND TO NON-MEMBERS

33.04 A person who is not a Member is not entitled to be allocated Land or to hold a permanent Interest in Henvey Inlet First Nation Land.

34 Transfer and Assignment of Interests

CONSENT OF COUNCIL

34.01 No Interest in Henvey Inlet First Nation Land may be transferred or assigned without the consent in writing of Council.

EXCEPTIONS

34.02 Council approval is not required for the following exceptions:

- a) a transfer or assignment of a Certificate of Possession or Certificate of Entitlement from one Member to another in accordance with this Land Code;
- b) a transfer that occurs by operation of law, including transfer of estate by testamentary disposition;
- c) a transfer pursuant to the interim Spousal Property rules in section 38 of this Land Code, or pursuant to a Spousal Property Law enacted by Henvey Inlet First Nation as provided in this Land Code; and
- d) every grant of an Interest or License in Henvey Inlet First Nation Land, other than those stated herein to be an exception, *shall* be deemed to include such consent as a condition of subsequent transfers or assignments.

35 Limits on Mortgages and Seizures

PROTECTIONS

35.01 In accordance with the *Framework Agreement*, section 29, section 87 and subsections 89(1) and (2) of the *Indian Act* continue to apply to Henvey Inlet First Nation Land.

MORTGAGE OF CERTIFICATE OF POSSESSION OR CERTIFICATE OF ENTITLEMENT

35.02 The Interest of a Member in Henvey Inlet First Nation Land may be subject to a mortgage or charge, with the written consent of the Council.

MORTGAGES OF LEASEHOLD INTERESTS WITH CONSENT

35.03 A leasehold Interest or License may be subject to charge or mortgage, but only where authorized by a resolution of Council with the advice of the Lands Advisory Committee.

TIME LIMIT

35.04 The term of any charge or mortgage of a leasehold Interest or License *shall* not exceed the lesser of:

- a) the term of the lease or License; or
- b) 35 years, or such longer period as may receive community approval.

DEFAULT IN MORTGAGE

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

- a) the charge or mortgage received the written consent of the Council;
- b) the charge or mortgage received community approval where required;
- c) the charge or mortgage was registered in the First Nations Land Register; and
- d) a reasonable opportunity to redeem the charge or mortgage is given to the Council on behalf of Henvey Inlet First Nation.

POWER OF REDEMPTION

35.06 Subject to prior redemption by the lessee or Member, Council on behalf of Henvey Inlet First Nation may redeem the charge or mortgage from the chargee or mortgagee in possession and *shall* thereupon acquire all the rights and Interests of the chargee or mortgagee and of the lessee or Member.

WAIVER OF REDEMPTION

35.07 Council may, by resolution, waive the requirements of sections 35.05 d) and 35.06 for any charge or mortgage of a leasehold Interest or Licence.

36 Development of Land for Commercial Purposes

EXEMPTION

36.01 Council may by resolution after community input:

- a) exempt Interests and Licences in Henvey Inlet First Nation Land intended to be used for Commercial Purposes from sections 31.02, 34 and 35 of this Land Code, and, subject to the requirements of the *Framework Agreement*, from other provisions of this Land Code; and
- b) prescribe alternate means of protecting the community interest in such lands, if Council deems it advisable, as terms and conditions of the Interest and Licence.

AMENDMENT AND REPEAL

36.02 With the consent in writing of all persons having a registered claim or interest in an Interest or Licence, a Land Law enacted pursuant to s.36 may be amended or repealed in the manner in which it was made.

HOW EVIDENCED

36.03 Exemptions, terms and conditions enacted pursuant to s.36 *shall* be incorporated in the Interest or Licence as express terms thereof or by attaching a true copy of the Land Law to the Interest or Licence.

37 Residency and Access Rights

RIGHTS OF RESIDENCE

37.01 The following persons have a right to reside on Henvey Inlet First Nation Land:

- a) Members, who have been allocated a residential lot by Council, and their Spouses and children;
- b) Members with a registered Interest in Henvey Inlet First Nation Land;
- c) any invitee of a Member referred to in clause a) or b);
- d) lessees and permittees, in accordance with the provisions of the instrument granting the lease or permit; and
- e) a person authorized in writing by the Council/Lands Advisory Committee or by a Land Law.

RIGHTS OF INGRESS AND EGRESS

37.02 A person entitled to reside upon, use or occupy lands or premises within Henvey Inlet First Nation Land may enter upon Community Lands and roadways within Henvey Inlet First Nation Land for purposes of ingress to and egress from those lands or premises, unless barred by a resolution of Council.

EXERCISING RIGHTS

37.03 A person exercising a right of ingress or egress *shall* do so without entering onto land which has been allocated to a Member or in which an Interest has been granted to any person except by right or

invitation, and *shall* comply with this Land Code, all Land Laws, and any restrictions contained in a written authorization from Council.

TRESPASS

37.04 Any person who resides on, enters or remains on Henvey Inlet First Nation Land other than in accordance with a residence or access right under this Land Code is guilty of an offence.

CIVIL REMEDIES

37.05 All civil remedies for trespass are preserved.

38 Spousal Property Law

ENACTMENT OF RULES AND PROCEDURES

38.01 The Council *shall* enact a Spousal Property Law providing rules and procedures applicable on the breakdown of a marriage and spousal relationships concerning:

- a) the use, occupancy and possession of Henvey Inlet First Nation Land; and
- b) the division of Interests in that Land.

DEVELOPMENT OF RULES AND PROCEDURES

38.02 The rules and procedures contained in the Spousal Property Law *shall* be developed by the Lands Advisory Committee in consultation with the community.

ENACTMENT DEADLINE

38.03 The Spousal Property Law *shall* be drafted and enacted 12 months from the date this Land Code takes effect.

GENERAL PRINCIPLES

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

- a) each Spouse should have an equal right to possession of their spousal home;
- b) each Spouse should be entitled to an undivided half Interest in their spousal home, as a tenant in common;
- c) the rules and procedures *shall* not discriminate on the basis of gender; and
- d) only Members are entitled to hold a permanent Interest in Henvey Inlet First Nation Land or a charge against a permanent Interest in Henvey Inlet First Nation Land.

INTERIM SPOUSAL PROPERTY RULES

38.05 In order that Members benefit immediately from the legislative authority of the Council to address the issue of Spousal Property:

- a) Council may enact Interim Spousal Property Rules to govern the rights of Spouses in relation to Henvey Inlet First Nation Land in event of a breakdown of marriage or spousal relationships.
- b) The Interim Spousal Property Rules *shall* be consistent with the principles provided in this Land Code to govern the development of a Spousal Property Law.
- c) Interim Spousal Property Rules enacted by Council *shall* come into force as a Land Law pursuant to this Land Code immediately upon enactment by Council, or on the later effective date provided therein, and *shall* remain in force for not more than 12 months or such shorter period of effect as may be stated

therein, unless re-enacted, amended or replaced by new Interim Spousal Property Rules, in each case to remain in force for not more than 12 months.

- d) Council's authority to enact Interim Spousal Property Rules *shall* be independent of the state of completion of the work of the Lands Advisory Committee and the community consultation process relating to the development of a Spousal Property Law.

PART 8 DISPUTE RESOLUTION

39 Collaborative Processes for Resolving Disputes in Relation to Land

PURPOSE

39.01 The purpose of this Part is to establish dispute resolution processes to assist parties in resolving disputes concerning Henvey Inlet First Nation Land in an expeditious, flexible, and collaborative manner that respects the traditions and values of Henvey Inlet First Nation.

PROCESSES NOT MANDATORY

39.02 The dispute resolution processes in this Part are not mandatory, but parties may agree in writing that all disputes between them concerning rights and interests in Henvey Inlet First Nation Land *shall* be submitted for resolution under one or more processes in this Part before proceedings may be commenced in any other forum.

NO LIABILITY

39.03 All persons who request or participate in a dispute resolution process under this Part *shall* be deemed to agree that none of the officials, panelists or others charged with the delivery of services or implementation of this Part *shall* be liable to any party or person for any act of omission in connection therewith.

CIVIL REMEDIES PRESERVED

39.04 Except for agreements in writing under subsection 39.02, nothing in this Part *shall* be construed to limit the rights of any person to pursue remedies in a court of law or any other forum.

40 Disputes to which this Part Applies

DISPUTES WHICH MAY BE SUBMITTED FOR RESOLUTION

40.01 This Part applies to disputes concerning rights and interests in Henvey Inlet First Nation Land, whether the facts upon which the dispute is based arose before or after the coming into force of this Land Code, other than disputes in relation to:

- a) the administration of an estate;
- b) housing allocations made by Council or a body authorized by Council to make allocations;
- c) decisions of Council to grant or refuse to grant an Interest or License in Henvey Inlet First Nation Land to a non-Member;
- d) all matters concerning expropriation under section 16 of this Land Code, including compensation; and
- e) offences under this Land Code, a Land Law or the laws of any other authority having jurisdiction.

41 Roster Panel Established

ROSTER PANEL

41.01 The Roster Panel is hereby established with authority to facilitate discussions and to manage dispute resolution processes as provided in this Part.

APPOINTMENT OF ROSTER PANEL AND CHAIR

41.02 Council *shall* from time to time by resolution appoint, from lists of qualified candidates selected by the Lands Advisory Committee, not less than five and not more than twenty individuals to serve as Roster Panelists, and, from among the Panelists, one Panelist to serve as Chair of the Roster Panel.

DUTIES OF PANELISTS

41.03 In discharging their responsibilities under this Part, Panelists *shall*

- a) act impartially, fairly and respectfully;
- b) avoid conflicts of interest;
- c) give all parties the opportunity to present their positions and to respond to the positions presented by others; and
- d) treat all parties fairly and with respect, and ensure that all participants in the dispute resolution process treat each other in the same manner.

PANELISTS NOT SUBJECT TO REVIEW

41.04 Proceedings and decisions of the Chair of the Roster Panel and Panelists *shall* be final and *shall* not be subject to review in any forum.

42 Dispute Resolution Processes

PROCESSES AVAILABLE

42.01 Where parties are unable to resolve a dispute to which this Part applies through direct negotiation, the dispute may be submitted for resolution through:

- a) Facilitated Discussions,
 - b) Mediation, or
 - c) Binding Arbitration,
- as provided in this Part.

NOTICE OF DISPUTE

42.02 One or more persons who wish to initiate a dispute resolution process under this Part *shall* file a written Notice of Dispute with the Chair of the Roster Panel setting out:

- a) the nature of the dispute and the essential facts giving rise to the dispute;
- b) the parties who may be affected and who should be involved in the resolution of the dispute;
- c) a request for facilitated discussions, mediation or arbitration;
- d) a proposed resolution of the dispute and the arguments supporting that resolution; and
- e) an undertaking to be proportionately responsible for the costs of the dispute resolution process as provided under this Part.

REPORT OF CHAIR OF ROSTER PANEL

42.03 As soon as practical after receiving a Notice of Dispute under section 42.02, the Chair of the Roster Panel or another Panelist not affected by the dispute and designated by the Chair for that purpose, *shall* make best efforts to meet with the parties to determine:

- a) whether the dispute falls within the class of matters which may be submitted for dispute resolution under this Part; and
- b) who are the necessary parties to the dispute and its resolution, and whether they will mutually agree in writing to participate in a dispute resolution process and bear the costs thereof as provided in this Part; and *shall* provide a report in writing to the persons deemed to be necessary parties advising whether one or more dispute resolution process under this Part may be available and, if so, the methods for initiating that or those processes.

43 Facilitated Discussions

PROCEDURE

43.01 Where the Report under subsection 42.03 approves a dispute for resolution by Facilitated Discussions, the parties *shall* mutually select a Panelist from the Roster Panel who *shall*:

- a) confirm the willingness of each party to participate in the dispute resolution process and to bear the proportionate costs thereof;
- b) investigate the material facts and identify the issues in the dispute;
- c) establish a plan and schedule for the facilitated discussions;
- d) facilitate discussions between the parties, which may be in writing, by telecommunication or in person, and encourage settlement of the dispute;
- e) assess the strengths of each party's case and provide the parties with a non-binding opinion or recommendations to resolve the dispute; and
- f) assist the parties in formalizing a written settlement agreement.

TERMINATION OF FACILITATED DISCUSSIONS

43.02 Facilitated Discussions *shall* be deemed terminated upon any of the following occurrences:

- a) the parties reach an agreement in writing to resolve the dispute or to terminate the dispute resolution process;
- b) one of the parties refuses to continue with the dispute resolution process; or
- c) the Panelist advises the parties in writing that nothing meaningful is to be gained by continuing the process.

FACILITATOR'S REPORT

43.03 Upon the termination of Facilitated Discussions, that Panelist *shall* submit to the Parties and to the Chair of the Roster Panel a written report on the conduct and outcome of the process, which *shall* remain confidential and which *shall* not be released to any other person without the consent of the Panelist, the Chair of the Roster Panel and each of the parties who participated in the process, or as may be required by law.

44 Mediation

MEDIATION BY THE ANISHINABEK NATION TRIBUNAL AND COMMISSION

44.01 Where the Report under subsection 42.03 approves a dispute for resolution by Mediation, the parties may submit the dispute for mediation to the appropriate Dispute Resolution Panel of the

Anishinabek Nation Tribunal and Commission, and the mediation *shall* be conducted in accordance with the rules, policies and procedures of that Commission.

45 Binding Arbitration

ARBITRATION BY THE ANISHINABEK NATION TRIBUNAL AND COMMISSION

45.01 Where the Report under subsection 42.03 approves a dispute for resolution by Binding Arbitration, the parties may submit the dispute to the appropriate Dispute Resolution Panel of the Anishinabek Nation Tribunal and Commission, and the binding arbitration *shall* be conducted in accordance with the rules, policies and procedures of that Commission.

46 Alternative to Anishinabek Nation Tribunal and Commission

ALTERNATIVE MEDIATION AND BINDING ARBITRATION MAY BE ESTABLISHED BY LAND LAW

46.01 Council may, by Land Law approved by a Community Vote:

- a) suspend, revoke or re-instate the authority of the Anishinabek Nation Tribunal and Commission to provide Mediation or Binding Arbitration under this Part;
- b) prescribe alternative methods of mediation or arbitration in compliance with the Land Code.

47 Costs of Dispute Resolution

PARTIES RESPONSIBLE FOR COSTS

47.01 The costs of dispute resolution processes under this Part *shall* be borne by the parties thereto in such proportions as they may agree or, in default of agreement, equally or in such other proportions as the facilitator, mediator or arbitrator in his or her discretion may decide in writing.

48 Rules and Procedures

RULES AND PROCEDURES

48.01 Council may by resolution from time to time establish rules, policies and procedures to govern the Roster Panel and to effectively implement the dispute resolution processes under this Part, including, without limitation:

- a) Codes of Conduct for Panelists and for parties to disputes;
- b) forms, fees and procedures;
- c) remuneration of facilitators, mediators, arbitrators, expert advisors, professionals and others retained to assist in the resolution of disputes; and
- d) record-keeping, access to information, disclosure and confidentiality of records.

PART 9 OTHER MATTERS

49 Liability

LIABILITY COVERAGE

49.01 The Council *shall* arrange, maintain and pay for insurance coverage for its officers and employees engaged in carrying out any matter related to Henvey Inlet First Nation Land to indemnify them against personal liability arising from the performance of those duties.

EXTENT OF COVERAGE

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

50 Offences

APPLICATION OF THE CRIMINAL CODE

50.01 Unless some other procedure is provided for by a Land 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 a Land Law.

51 Revisions to Land Code

REVISIONS

51.01 A Ratification Vote *shall* not be required for revisions made to this Land Code that do not change the substance of this Land Code. The Council may, from time to time, arrange and revise this Land Code. Revisions may be made as a result of, but are not limited to:

- a) an amendment of the description of Henvey Inlet First Nation Land subject to the Land Code as amended from time to time;
- b) a reference in this Land Code to a clause in another act or document that was amended and resulted in clause renumbering;
- c) a reference in this Land Code to an Act or parts thereof that have expired, have been repealed or suspended;
- d) minor improvements in the language as may be required to bring out more clearly the intention of the Henvey Inlet First Nation without changing the substance of the Land Code;
- e) changes in this Land Code as are required to reconcile seeming inconsistencies with other acts; and
- f) correct editing, grammatical or typographical errors.

52 Commencement

PRECONDITIONS

52.01 This Land Code *shall* not take effect unless the community approves this Land Code and the Individual Agreement with Canada and this Land Code has been certified by the verifier pursuant to the *Framework Agreement*.

COMMENCEMENT

52.02 Subject to section 52.01, this Land Code *shall* take effect on the first day of the month following the certification of this Land Code by the verifier.