

Wei Wai Kum First Nation Land Code

*Final Ratification Draft
Dated for Reference June 25, 2012*

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Commissioner for Taking Affidavits
In the Province of British Columbia
Until February 28, 2013

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WEI WAI KUM RESERVE LAND CODE

PREAMBLE

WHEREAS the Wei Wai Kum First Nation has occupied, managed and benefited from our territories since time out of memory;

AND WHEREAS the Wei Wai Kum First Nation honors our connection to the land, resources and elements of the natural world that provide for our physical and spiritual needs;

AND WHEREAS the Wei Wai Kum First Nation recognizes our responsibility to protect the land and its resources for future generations and to protect the rights of the Wei Wai Kum First Nation and our Members;

AND WHEREAS the Members of the Wei Wai Kum First Nation are proud, united people whose purpose is to promote a healthy and prosperous future that ensures the continued existence of the Wei Wai Kum First Nation as a strong political, social and cultural community that aspires to move ahead as an organized, highly-motivated, determined and self-reliant First Nation;

AND WHEREAS the Wei Wai Kum First Nation values the need to respect, protect and promote our heritage, culture and traditions as the driving force of our success and destiny while understanding that these practices may change and require contemporary expression;

AND WHEREAS the Wei Wai Kum First Nation wishes to manage our land and resources on our Reserves by ratifying a Land Code; and

AND WHEREAS the authority of the Wei Wai Kum First Nation to govern our lands and resources flows from the Creator to the people of the Wei Wai Kum First Nation, and from the people to the Chief and Council according to the culture, traditions, customs and laws of our Nation;

NOW THEREFORE, THIS WEI WAI KUM FIRST NATION LAND CODE IS HEREBY ENACTED AS THE FUNDAMENTAL LAND LAW FOR WEI WAI KUM RESERVE LAND.

PART 1 - PRELIMINARY MATTERS

1. TITLE

1.1 The title of this enactment is the Wei Wai Kum First Nation Land Code.

2. INTERPRETATION

Definitions

2.1 The following definitions apply in this Land Code:

- (a) **"Allotment"** means an Interest in Wei Wai Kum Reserve Lands that entitles a Member to use and occupy a parcel or area of Reserve Land under this Land Code or, prior to the date this Land Code came into effect, under section 20 of the *Indian Act*;
- (b) **"Band Land"** means any Wei Wai Kum Reserve Land in which all Members have a common interest but does not include CP Land;
- (c) **"Budget"** means a Land and Natural Resources Budget or supplementary budget as set out in Section 19 of this Land Code;
- (d) **"Certificate of Possession"** or **"CP"** means an official document issued under this Land Code or formerly under section 20 of the *Indian Act* to confirm a Member's Allotment and to grant the Member exclusive use and occupation of the land accordance with this Land Code;
- (e) **"Community Purpose"** means a purpose which is intended to provide a facility, benefit or support for the Members or Persons residing on Wei Wai Kum Reserve Lands, and is limited to transportation and utility corridors and requirements related to transportation and utility corridors;
- (f) **"Conflict of Interest"** means a situation where a person or his or her family stand to gain in a financial, political, proprietary or other similar manner from a decision but does not include situations when the interests of the person or Committee Member in question are common interests shared by all Members of the First Nation.
- (g) **"Council"** means the elected Chief and Council of the Wei Wai Kum First Nation.
- (h) **"CP"** means a Certificate of Possession;
- (i) **"Duplicate Land Register"** means the duplicate register which may be established and maintained by the Wei Wai Kum First Nation under Section 29;
- (j) **"Eligible Voter"** means, for the purpose of voting in respect of land matters under this Land Code, a Member who is least 18 years of age on the day of the Ratification Vote;
- (k) **"Extended Family"**, in respect of a person, means the person's grandparent, parent, uncle, aunt, cousin, sister, brother, child, grandchild and spouse.
- (l) **"First Nation"** means the Wei Wai Kum First Nation, also known as the Campbell River Indian Band;
- (m) **"First Nation Land Register"** means the register maintained by the Department of Indian Affairs and Northern Development under the Framework Agreement;
- (n) **"Framework Agreement"** means the Framework Agreement on First Nation Land Management entered into between the Minister of Indian Affairs and Northern

Development and the Chiefs of fourteen First Nations on February 12, 1996, as amended;

- (o) **"Immediate Relatives"** in respect of a person, means the person's parent, sister, brother, child or spouse;
- (p) **"Instrument"** means a legal document in writing, duly signed and witnessed, which purports to affect or to create, grant, assign, transfer or encumber an Interest in Wei Wai Kum Reserve Lands;
- (q) **"Interest"** means an interest in Wei Wai Kum Reserve Lands, including an Allotment, lease, license, mortgage, permit, easement, right-of-way and sublease;
- (r) **"Lands Committee"** means the Lands Committee established under this Land Code;
- (s) **"Lands Administrator"** means the person appointed by Resolution to oversee the day to day operations of the Wei Wai Kum Lands Office and the administration of this Land Code;
- (t) **"Law"** means a Wei Wai Kum law enacted pursuant to this Land Code;
- (u) **"Majority"** means fifty percent plus 1 (50% + 1);
- (w) **"Member"** means a person whose name appears or is entitled to appear on the Wei Wai Kum First Nation Membership List;
- (x) **"Natural Resources"** means any minerals, placer minerals, substrate, oil, gas, substances, groundwater, water, timber, vegetation or animals found under or in Wei Wai Kum Reserve Lands which, when removed, have economic value;
- (y) **"Person"** means an individual, corporation, body corporate, partnership, joint venture, association, trust, or unincorporated organization of any trustee, executor, administrator, or other legal representative;
- (z) **"Ratification Vote"** means a vote of Eligible Voters under section 14;
- (aa) **"Residential Use"** means use of an Allotment or CP by a Member, who does not already have an Allotment or CP, for use as a principal residence, and does not include use of land or buildings for renting out, or industrial, commercial or other uses except in accordance with Wei Wai Kum Laws including Laws for home-based businesses;
- (bb) **"Resolution"** means a written resolution of the Council passed under this Land Code by a quorum of Council at a duly convened Council meeting;
- (cc) **"Spouse"** means a person who is married to another, whether by a traditional, religious or civil ceremony but does not include a common law spouse;

- (dd) **"Verifier"** means a verifier appointed in accordance with clause 8.1 of the Framework Agreement;
- (ee) **"Wei Wai Kum First Nation"** means the Wei Wai Kum First Nation otherwise known as the Campbell River Indian Band; and
- (ff) **"Wei Wai Kum Reserve Land"** means any portion of a Wei Wai Kum Indian reserve that is subject to this Land Code under section 5.

2.2 In this Land Code:

- (a) The use of the word "shall" denotes an obligation that, unless this Land Code provides to the contrary, must be carried out as soon as practicable after this Land Code comes into effect or the event that gives rise to the obligation;
- (b) Where the time limited for the doing of an act expires or falls on a Saturday or Sunday or a federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday;
- (c) Where the time limited for the doing of an act in the Wei Wai Kum First Nation administration building falls on a day when the office is not open during regular business hours, the act may be done on the next day that the office is open;
- (d) Where there is a reference to a number of days or a number of days between two events, in calculating that number of days, the days on which the events happen are excluded;
- (e) Unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular;
- (f) Unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine; and
- (g) The headings of parts and sections in this Land Code have been inserted as a matter of convenience and for reference only and in no way define or limit or any of its provisions.

Paramourncy

- 2.3**
- (a) If there is an inconsistency or conflict between this Land Code and any other Law of the Wei Wai Kum First Nation, this Land Code prevails to the extent of the inconsistency or conflict; and
 - (b) If there is an inconsistency or conflict between this Land Code and the Framework Agreement, the Framework Agreement prevails to the extent of the inconsistency or conflict.

Culture and Traditions

- 2.4 The structures, organizations, Laws and procedures established by or under this Land Code shall be interpreted in accordance with the culture, traditions and customs of the Wei Wai Kum First Nation, unless otherwise provided.

Non-abrogation

- 2.5 This Land Code does not abrogate or derogate from any Aboriginal, treaty or other rights or freedoms that pertain to the Wei Wai Kum First Nation or its Members.

Fair interpretation

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

Fiduciary Relationship

- 2.7 This Land Code does not abrogate the fiduciary relationship now or in the future between Her Majesty and the Wei Wai Kum First Nation or between Her Majesty and Wei Wai Kum Members.
- 2.8 This Land Code is not intended to affect the eligibility of Wei Wai Kum or any Member to receive services or participate in such public or aboriginal programs as may be established from time to time, to the extent that Wei Wai Kum has not assumed responsibility for such services and programs.

3. AUTHORITY TO GOVERN

Origin of authority.

- 3.1 The traditional teachings of the Wei Wai Kum First Nation speak of the obligation of the people of the Wei Wai Kum First Nation to care for and respect the land. By enacting this Land Code, the Wei Wai Kum First Nation is re-assuming this special responsibility in relation to Wei Wai Kum Reserve Land.

Administration

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

Delegation

- 3.3 Despite section 3.2, Council may, by Resolution, delegate administrative authority to an individual or a body established or authorized under this Land Code.

4. PURPOSE

Purpose.

- 4.1 The purpose of this Land Code is to set out the principles and legislative and administrative structures that apply to Wei Wai Kum Reserve Lands and by which Wei Wai Kum First Nation will exercise authority over those lands.

Ratification.

- 4.2 This Land Code will be ratified if:
- (a) The Members approve this Land Code and the Individual Agreement by a Ratification Vote; and
 - (b) This Land Code has been certified by the Verifier in accordance with the Framework Agreement.

Approval

- 4.3 The Land Code will be approved in accordance with clause 22 of the *Wei Wai Kum First Nation Community Ratification Process* which is dated for reference January 10th, 2012.

5. DESCRIPTION OF WEI WAI KUM RESERVE LAND

Wei Wai Kum Reserve Lands

- 5.1 The Wei Wai Kum Reserve Land that is subject to this Land Code are the Indian Reserves known as Campbell River Indian Reserve #11 (06964), Homayno Indian Reserve #2 (06961), Loughborough Indian Reserve #3 (06962), and Matlaten Indian Reserve #4 (06963) as described in the Natural Resources Canada Legal Description Reports. These Legal Description Reports are available for review at the Campbell River Band Land Management Office located at, 1400 Weiwaikum Road, Campbell River, BC V9W 5W8. These reserves include all of the interests in and resources of the land that are within the legislative authority of Parliament except the portions of Campbell River Indian Reserve 11 shown as Lot 238 as shown on plan 100277 CLSR and Lots 234, 235 and 237 as shown on Plan 93571 CLSR.

Additional lands.

- 5.2 The following lands may be made subject to this Land Code after the applicable condition is met:
- (a) any lands owned jointly by Wei Wai Kum First 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 added to Reserve as a result of Specific Claims, Additions to Reserve, negotiations, land exchanges or other processes.

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 17.

Inclusion of land or Interest.

- 5.4 When the relevant conditions in sections 5.2 are met, the Council shall call a meeting of Members within three months, under section 11 and, after receiving their input, may by enacting a Law declare the land or Interest to be subject to this Land Code.

PART 2 - FIRST NATION LEGISLATION

6. LAW-MAKING POWERS

Development of Laws

- 6.1 Council in accordance with this Land Code may enact Laws respecting:
- (a) Development, conservation, protection, management, use and possession of, and planning for Wei Wai Kum Reserve Lands;
 - (b) Interests;
 - (c) Establishment, collection, administration, borrowing, saving and expenditure of any fees, charges, revenues, or other monies in relation to Wei Wai Kum Reserve Lands;
 - (d) Any matter necessary to give effect to this Land Code;
 - (e) Any matter necessary or any matter related to a Law and
 - (f) procedures and processes including the procedure for the Lands Committee election, and transitional rules for the first members of the Lands Committee

Community Consultation respecting Specific Laws

- 6.2 For greater certainty, and without limiting the generality of section 6.1, Council may make Laws or Resolutions respecting the following but only after completing the community consultation and a Ratification Vote under the process set out in Part 3:
- (a) A Law creating, or making significant amendment to, a Land Use Plan;
 - (b) Environmental assessment and environmental protection;
 - (c) Expropriation;

- (d) Setting aside and regulation of heritage lands and sacred sites;
- (e) All matter set out in subsection 12.1 below; and
- (f) Any matters or class of matters set out by Council by Resolution or Law.

Examples of Laws

6.3 Without restricting the generality of section 6.1, Council may make Laws respecting:

- (a) the purchase, acquisition or sale of Wei Wai Kum Reserve Lands in accordance with the Act and this Land Code;
- (b) regulation, control, authorization and prohibition of residency, access, occupation and development of Wei Wai Kum Reserve Lands;
- (c) regulation, licensing and control of businesses on Wei Wai Kum Reserve Lands;
- (d) regulation of construction and standards for buildings, structures and facilities on Wei Wai Kum Reserve Lands;
- (e) zoning and land use planning;
- (f) fees or charges to be paid to Wei Wai Kum for the granting or transfer of Interests in Band Lands;
- (g) fees, stumpage, or royalties to be paid to Wei Wai Kum for the removal or extraction of Natural Resources from Wei Wai Kum Reserve Lands, including for removal or extractions of minerals, gravels and timber from Band Lands and from Allotments or CP lands;
- (f) fees to be paid to Wei Wai Kum for permits, licenses, and other Interests and for applications and administrative processes including registrations;
- (g) bonds, irrevocable letters of credit, or other security to be provided by a Person developing any portion of Wei Wai Kum Reserve Land if such security is required to protect the interests of the First Nation or to protect the integrity of lands, structures or infrastructure;
- (h) provision of local services and the imposition of user charges including development cost charges or their equivalent;
- (i) authorization and regulation of developments and subdivisions including requirements for park dedications or grants in lieu of park dedications and requirements for community housing land or unit dedications or grants in lieu of housing dedications;
- (j) the conduct of surveys of lands or Interests;

- (k) setting aside, designation, regulation or management of parks, parklands, trails, greenspace, and recreational lands;
- (l) rules and procedures for the receipt, management, expenditure, investment, and borrowing of moneys, and the establishment of administrative structure to manage such moneys;
- (m) creation of management and administrative bodies or agencies;
- (n) removal and punishment of Persons trespassing upon Wei Wai Kum Reserve Land or frequenting Wei Wai Kum Reserve Land for prohibited purposes;
- (o) public nuisance and private nuisance;
- (p) regulation of sanitary conditions and the provision of sanitary services in private premises and public places;
- (q) construction and maintenance of boundary and internal fences;
- (r) construction, maintenance and management of roads, water courses, water diversions, storm drains, bridges, ditches and other local and public works;
- (s) regulation of traffic and transportation;
- (t) hunting, fishing, and management and protection of fish, wildlife and their habitat on Wei Wai Kum Reserve Land;
- (u) management and control of domestic and agricultural animals on Wei Wai Kum Reserve Land; and
- (v) use and storage of fireworks, firearms, weapons and hazardous materials or substances.

Development of land related Laws, rules and procedures.

6.4 After this Land Code takes effect, the Lands Committee shall work with Council, in consultation with the community, to ensure that Laws, rules and procedures are developed that address the following matters:

- (a) subject to funding and cooperation and coordination from Canada, environmental protection and assessment in relation to Wei Wai Kum Reserve Land;
- (b) subject to funding and cooperation and coordination from Canada, any outstanding issues on the resolution of disputes in relation to Wei Wai Kum Reserve Land;
- (c) within 12 (twelve) months a Law under section 41 respecting spousal separation;
- (d) within 24 (twenty-four) months a land use plan and zoning Laws; and

- (e) within 24 (twenty-four) months a Law relating to Heritage Sites under Part 16.

Implementation of Laws, policies and procedures.

- 6.5 The Laws, rules and procedures in subsection 6.4, once developed, shall be presented to the Council and will be given full and fair consideration and passed and implement as policies, Laws or amendments to this Land Code, whichever is most appropriate.

Internal procedures.

- 6.6 The Lands Committee may establish rules for its meetings and generally for the conduct of its affairs.

Offences and Penalties.

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

Enforcement.

- 6.8 Council may enact Laws respecting appointment of justices of the peace for the enforcement of this Land Code and Laws
- (a) If no justice of the peace is appointed, this Land Code and Laws are to be enforced by a court of competent jurisdiction; and
 - (b) Council may enact Laws or develop policies to enable appropriate enforcement issues and disputes to be dealt with through community justice process.
- 6.9 Council may enact Laws to create ticketing processes or similar enforcement mechanisms or to incorporate such processes or enforcement mechanisms from provincial or local government sources.

7. LAW-MAKING PROCEDURE

Introduction of Laws.

- 7.1 A proposed Law may be introduced at a duly convened meeting of the Council by any of the following provided the proposal is made in writing and meets the requirements set out in section 7.2:
- (a) the Chief or a Councillor;
 - (b) a representative of the Lands Committee, or other body or authority composed of Members that may be authorized by Council to do so;

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- (c) The Lands Administrator; or
- (d) A Petition presented to Council signed by at least twenty-five (25) Eligible Voters, setting out the request for development of a Wei Wai Kum Law addressing a specific subject matter or issue.

7.2 A written proposal for a Law in 7.1 above shall contain in relation to the proposed Law:

- (a) a proposed title;
- (b) a brief description of the subject matter to be addressed;
- (c) a reason why the proposed Law is necessary;
- (d) a draft outline of the Law; and
- (e) the section or sections of the Land Code which authorize the proposed Law.

Assistance of Lands Administrator

7.3 If requested by one or more Members or group of Members of the Committee, the Lands Administrator shall assist them in preparing the information required in section 7.2.

Before Enacting a Proposed Law.

7.4 Before a proposed Law may be passed by the Council, it must, at least 28 days in advance of being passed,

- (a) be tabled at a meeting of the Council; and
- (b) posted in at least two public places on Wei Wai Kum Reserve Land.

7.5 Before a proposed Law set out in subsection 12.1 requiring a Community Ratification Vote may be passed by Council, the proposed Law must be:

- (a) tabled and posted under subsection 7.4; and
- (b) ratified under subsection 14.6. by a Majority of the Eligible Voters who vote cast their vote in favour of the Law.

Urgent matters.

7.6 The Council may enact a Law without the preliminary steps required under this Part, if the Council, acting reasonably, is of the opinion that the Law is needed urgently to protect Wei Wai Kum Reserve Land or the Members, but any such emergency Law expires 28 (twenty-eight) days after its enactment, unless re-enacted in accordance with subsections 7.2, 7.4 and, if required, 7.5.

Approval of Laws

- 7.7 A Law is enacted if it is passed by Resolution at a duly convened meeting of the Council after meeting the requirements of subsection 7.2, 7.4 and 7.5, and, if required, sections 11 and/or 12.

Certification of Laws.

- 7.8 The original copy of any Law or Resolution concerning Wei Wai Kum Reserve Land shall be signed by a quorum of the Council present at the meeting at which it was enacted.

8. PUBLICATION AND REGISTRATION OF LAWS

Publication.

- 8.1 All Laws shall be published in the minutes of the Council.

Posting laws.

- 8.2 Within 7 (seven) days after a Law has been enacted, the Council shall post a copy of the Law in the administrative offices of the Wei Wai Kum First Nation and on the Wei Wai Kum website, however, failure to post a Law within 7 (seven) days does not invalidate the Law.

Registry of Laws.

- 8.3 All Laws shall be registered in the First Nation Land Register.
- 8.4 Council shall, unless otherwise determined by Resolution, cause a duplicate register of Laws to be kept at the Wei Wai Kum administration office, containing the original copy of all Laws and Council Resolutions under this Land Code, including those that have been repealed or are otherwise no longer in force. Any Person may, during regular business hours at the Wei Wai Kum administration office, have reasonable access to the register of Laws.

Copies for any person.

- 8.5 Any Person may obtain a copy of a Law during regular business hours upon payment of such reasonable fee, if any, as may be set by Council or the Lands Administrator.

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 later date as specified by or under the Law.

PART 3 – COMMUNITY CONSULTATION AND APPROVALS

10. RIGHTS OF ELIGIBLE VOTERS

Rights of Eligible Voters.

10.1 Each Member who is at least 18 (eighteen) years of age is eligible to vote in a Ratification Vote.

11. COMMUNITY INPUT AND DECISION MAKING

Meeting of Members

11.1 The Council shall convene a meeting of Members or publicly invite Members to a Council meeting to receive their input prior to passing any of the following Laws:

- (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 respecting significant changes to or developments of heritage sites excluding the Estuary and any cemeteries;
- (d) a Law respecting environmental assessment;
- (e) a Law respecting the transfer and assignment of Interests in Band Land;
- (f) a Law respecting the rate and criteria for the payment of fees or rent in relation to Band Land; and
- (g) any other Law or class of Law that Council, by Resolution, declares to be subject to this section.

12. COMMUNITY APPROVAL

Ratification Vote

12.1 Community approval by a Ratification Vote following a meeting of Members must be obtained for the following:

- (a) any land use plan and or major amendment of a land use plan;
- (b) any grant or disposition of an Interest in any Wei Wai Kum Reserve Land exceeding a term of 25 (twenty-five) years,
but, for greater certainty, a Ratification Vote is not required for:
 - (i) grants or transfers of lots or CP's to Members in accordance with this Land Code or any Law or legal proceeding;

- (ii) grants of Interests to utilities installing infrastructure for the benefit of the Wei Wai Kum community or Wei Wai Kum Reserve Land.
- (c) any renewal of a grant or disposition of an Interest in any Wei Wai Kum Reserve Lands that extends the original term beyond 25 years;
- (d) any grant or disposition of any Natural Resources on or from any Band Lands,
 - (i) exceeding a term of 5 years;
 - (ii) for minerals, placer minerals, sand, rock or gravel, exceeding a volume of 100 cubic meters per year;
 - (iii) for timber, exceeding a volume of 500 cubic meters; and
 - (iv) for water or groundwater, excluding authorizations to connect to water services provided by a local government;
- (e) expropriations of all or part of a CP or an Interest;
- (f) a Law enabling development or loss of protection of a heritage site relating to the Estuary or any cemeteries;
- (g) any Law on spousal separation that may be enacted under section 41;
- (h) any voluntary exchange of Wei Wai Kum Reserve Land; and
- (i) any Law or class of Law that Council, by Resolution, declares to be subject to this subsection.

13. PROCEDURE AT A MEETING OF MEMBERS

Voting.

- 13.1** No Ratification Votes shall be held on the floor at a meeting of Members: all Ratification Votes shall be held by mail-in ballot or similar forms of polls to allow all Members an opportunity to consider and vote.

Notice of meeting.

- 13.2** The Lands Administrator 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 at the meeting and any draft Law to be voted on after the meeting.

Manner of notice.

13.3 The notice of a meeting of Members must be given to the Members by

- (a) posting the notice in a public place on Wei Wai Kum Reserve Land and on the Wei Wai Kum Website at least 21 (twenty-one) days before the meeting;
- (b) mailing or e-mailing the notice to Members for whom the Lands Office has current mailing or e-mail addresses;
- (c) publishing the notice in the community newsletter at least 10 (ten) working days before the meeting; and
- (d) any such additional method as the Council may consider appropriate in the circumstances.

Who may attend.

13.4 All Members have a right to attend a meeting of Members, but other Persons who are non-Members may attend only with the written permission of the Council.

Other meetings

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

Other laws.

13.6 For greater certainty, the Council may make Laws respecting meeting of Members provided they are in accordance with this Land Code.

14. RATIFICATION PROCESS

Ratification Process for the Land Code.

- 14.1** A Ratification Vote for this Land Code shall be conducted in accordance with the Framework Agreement, the First Nations Land Management Act, and the Wei Wai Kum Community Ratification Process approved by Council.
- 14.2** All Eligible Voters are entitled to register to vote on the Land Code in accordance with the procedures set out in the Wei Wai Kum Community Ratification Process.
- 14.3** This Land Code shall be approved if
 - (a) a majority of the registered Eligible Voters who sign up to vote, vote in favour; and
 - (b) the total number of "yes" votes is at least 25% plus 1 of the total number of all Eligible Voters.

Ratification Process for Laws and other Matters.

14.4 Any Ratification Vote required under this Land Code shall be conducted in substantially the same manner as the Wei Wai Kum First Nation Community Ratification Process, which was used to ratify this Land Code, with any modifications necessary to suit that particular situation, and with the voting threshold set out in section 14.6.

No verifier.

14.5 A verifier is not needed in any Ratification Vote, except for the Land Code Ratification Vote.

Minimum requirements for approval of other Laws or matters.

14.6 A Law or matter, other than the ratification of the Land Code, shall be considered approved by a Ratification Vote if a Majority of the Eligible Voters who vote cast their vote in favour of the Law or matter.

PART 4 - PROTECTION OF LAND

15. EXPROPRIATION

Expropriation.

15.1 Wei Wai Kum may expropriate or cancel an Interest in Wei Wai Kum Reserve Lands, for a Community Purpose provided the following conditions, in the order listed, have been met:

- a) A Law has been enacted setting out:
 - i. A procedure governing the expropriation process;
 - ii. A method of determining fair compensation to be paid to the interest holder;
and
 - iii. The procedure for an Arbitrator to resolve disputes regarding the amount of compensation to be paid to any interest holder;
- b) Written notice has been given to the interest holder specifying the interest that is being considered for expropriation or cancellation as a result of an expropriation;
- c) Council has attempted in good faith to negotiate an agreement with the interest-holder for the transfer or cancellation of the interest that or cancellation of permit that is being considered for expropriation but has failed to reach such an agreement; and

- d) Council has issued a report to the Members setting out the Community Purpose for which the proposed expropriation is required and the necessity for the proposed expropriation.

Rights that may not be expropriated.

- 15.2 An Interest of Her Majesty the Queen in right of Canada or the province is not subject to expropriation by Wei Wai Kum First Nation.

Community approval.

- 15.3 In the case of an expropriation of a CP or a Member's Interest, the expropriation must first receive community approval by Ratification Vote.

Compensation calculations.

- 15.4 The total value of the compensation under this Part will be based on the following:
- (a) the market value of the Interest that is being expropriated or cancelled;
 - (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 or portion of an Interest.

Market value.

- 15.5 The "market value" of an expropriated Interest is equal to the amount that would have been paid for the Interest if it had been sold on the Reserve by a willing seller to an eligible and willing buyer under no duress.

Neutral evaluation to resolve disputes.

- 15.6 The resolution of disputes concerning the right of Wei Wai Kum 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 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.

Dispute Resolution

- 15.7 Except as otherwise provided in this Part, disputes in relation to expropriation of Wei Wai Kum Reserve Lands or an Interest in Wei Wai Kum Reserve Lands shall be determined as follows:
- (a) The parties to the dispute may agree the dispute may be determined by mediation, arbitration or other dispute resolution mechanism agreed to by the parties; or

- (b) If the parties to the dispute do not agree on a dispute resolution mechanism, the dispute shall be determined by a court of competent jurisdiction.

Forfeiture is not an Expropriation

- 15.8 Despite the provisions in this Part, Council is not required to proceed through the steps set out in subsections 15.1 to 15.7 to cancel an Interest or proceed with a forfeiture in relation to a tax debt or other debt owing to Wei Wai Kum First Nation.

16. HERITAGE SITES

Community approval of development.

- 16.1 The Council shall within 24 (twenty-four) months after this Land Code takes effect, establish and implement a Law regarding heritage sites.

Land Use Plan

- 16.2 No amendment may be made to a land use plan to delete a heritage site.

17. VOLUNTARY LAND EXCHANGES AND PROTECTIONS

Conditions for a land exchange.

- 17.1 Wei Wai Kum First Nation may by agreement exchange a parcel of Wei Wai Kum Reserve Land for a parcel of land from another party in accordance with this Land Code and the Framework Agreement.

Membership approval of land exchange.

- 17.2 A land exchange is of no effect unless it receives approval from Members by a Ratification Vote.

Conditions for lands to be received

- 17.3 A proposed land exchange cannot proceed to a Ratification Vote unless:
- (a) Wei Wai Kum receives at least some land in exchange that is potentially eligible to become Reserve under the *Indian Act* and to become Wei Wai Kum Reserve Land in accordance with this Land Code; and
 - (b) the total value of compensation received in land, cash and other compensation is of a value comparable to, or greater than, the appraised value of the Wei Wai Kum Reserve Land to be exchanged.

Negotiators must be designated by resolution.

- 17.4 A Person can only negotiate a land exchange agreement on behalf of Wei Wai Kum if they are designated by Resolution for that specific negotiation.

Additional land.

- 17.5 Wei Wai Kum may accept additional compensation, including money or other land, in addition to the exchange land referred to in section 17.1 and any such additional land does not need to meet the requirements of section 17.3.

Other land

- 17.6 Other Land accepted under section 17.5 may be held by Wei Wai Kum or a Wei Wai Kum corporation or trust in fee simple or otherwise.

Federal consent.

- 17.7 Unless otherwise agreed between Wei Wai Kum and Canada, before Wei Wai Kum completes a land exchange, it must receive a written statement from Canada stating that Her Majesty in right of Canada:
- (a) consents to set apart as a Reserve subject to this Land Code the land to be received in the land exchange, as of the date of the land exchange or such later date as Council may specify by Council Resolution; and
 - (b) consents to the manner and form of the land exchange as set out in the land exchange agreement.

Community notice.

- 17.8 Once negotiations on the land exchange agreement are concluded, the Council or Land Administrator shall provide the following information to Eligible Voters at least 21 (twenty-one) days before the Ratification Vote:
- (a) a description of the Wei Wai Kum Reserve 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 17.3 have been met;
 - (e) a copy of summary of the exchange agreement; and
 - (f) a copy of the consent referred to in section 17.7.

Process of land exchange.

17.9 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 Wei Wai Kum Reserve Land being exchanged, in accordance with the exchange agreement; and
- (c) a copy of the instruments transferring title to the relevant parcels of land must be registered in the First Nation Land Register.

PART 5 – ACCOUNTABILITY AND FINANCIAL MANAGEMENT

18. CONFLICT OF INTEREST

Application of rules.

18.1 The rules in section 18.2 apply to the following persons when dealing with a matter, interest or decision relating to Wei Wai Kum Reserve Land:

- (a) each Member of the Council including the Chief;
- (b) each person who is an employee or contractor of Wei Wai Kum First Nation; and
- (c) each person who is a member of a board, committee or other body of Wei Wai Kum First Nation.

Duty to report and abstain.

18.2 If there is any interest, financial, personal, political or otherwise, in the matter being dealt with that might involve the person or his or her Immediate Relatives, the person shall

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

Common Interests.

18.3 Section 18.2 does not apply to any interest that is held by a Member in common with every other Member. For example, an individual is not in conflict if a proposed decision will benefit that Member in the same way it will benefit all Members.

Meeting of Eligible Voters.

- 18.4 If the Council is unable to vote on a proposed law or Resolution due to a lack of quorum arising from conflicts of interest, the Council may refer the matter to a community meeting for a decision by Ratification Vote under Sections 12 to 14.

Disputes.

- 18.5 Questions about whether a breach of this Section has occurred may be referred by any person to the Adjudicator.

Penalties

- 18.6 In addition to any other penalty that may be prescribed by Council, by federal or provincial law or by Wei Wai Kum Law for breach of this Part, an individual is liable to the First Nation to repay any benefit to himself or herself, an Immediate Family member or a business in which that individual holds an interest, resulting from a violation of this Part.

19. FINANCIAL MANAGEMENT

Application.

- 19.1 This section applies only to financial matters relating to Wei Wai Kum Reserve Land.

Establishment of bank accounts.

- 19.2 All monies received by Wei Wai Kum or its corporations from Wei Wai Kum Reserve Land, relating to lands or Natural Resources excluding property tax under this Land Code must be receipted and fully deposited, without delay, in an account or accounts designated for Wei Wai Kum Reserve Lands and Natural Resources revenues separate from other Wei Wai Kum revenue in a financial institution designated by Council by Resolution. This includes:

- (a) transfer payments received from Canada for the management and administration of Wei Wai Kum Reserve Land;
- (b) moneys received by Wei Wai Kum First Nation from the grant or disposition of any Interests in Wei Wai Kum Reserve Land;
- (c) all fees, fines, royalties, charges and levies collected under a land Law or land Resolution;
- (d) all capital and revenue moneys received from Canada from the grant or disposition of any Interests in Wei Wai Kum Reserve Land; and
- (e) any other land or Natural Resources revenue received by Wei Wai Kum First Nation excluding property tax.

Signing officers.

- 19.3 The Council must authorize by Resolution at least three persons as signing officers to sign cheques and other bills of exchange or transfer drawn on the account set out in subsection 19.2: the Lands Administrator, the Band Manager and a Member of the Council.

Bonding.

- 19.4 Every signing officer must be bondable.

Two signatures.

- 19.5 To be valid, a cheque or other bill of exchange or transfer drawn on the account set out in paragraph 19.2 must be authorized by the Member of Council selected as the signing officer; along with either the Lands Administrator's signature or the Band Manager's signature.

Fiscal year.

- 19.6 Unless otherwise declared by Resolution, the fiscal year of Wei Wai Kum First Nation begins on April 1 of each year and ends on March 31 of the following year.

Preparation of Budget.

- 19.7 The Lands and Natural Resources Budget shall be prepared by the Financial Controller in consultation with the Lands Administrator before the commencement of the fiscal year and shall provide a summary of anticipated revenues from Wei Wai Kum Reserve Lands and Natural Resources and proposed expenditures for those funds.

Adoption of Budget

- 19.8 Council will, by Resolution, prior to the beginning of each fiscal year, adopt a Budget for that fiscal year and may, if Council deems it necessary in the course of the fiscal year, adopt by Resolution one or more supplementary Budgets for that fiscal year.

Supplementary Budget

- 19.9 Prior to adopting a supplementary Budget referred to in section 19.8 Council will request the Financial Officer and Lands Administrator to prepare and comment on the supplementary Budget.

Procedure.

- 19.10 After adopting the Budget or supplementary Budget, the Council must, without undue delay
- (a) present the Budget or supplementary Budget to the Members at a community meeting; and

- (b) make a copy of the Budget or supplementary Budget available at the administrative office of Wei Wai Kum First Nation for inspection by Members at reasonable hours.

If no Budget.

- 19.11 If the Council fails to adopt a Budget for a fiscal year prior to the beginning of that fiscal year, the most recent Budget and or the most recent supplementary Budget from the previous fiscal year shall apply until a new budget is adopted.

Budget Policy and Procedures.

- 19.12 The Council must, in consultation with the Lands Administrator and Financial Controller, within six months of this Land Code taking effect, make rules or policies and procedures respecting the preparation and implementation of Budgets under this Part.

Expenditures Must be Authorized by Budget.

- 19.13 Neither the Council nor staff are permitted to expend revenues related to Wei Wai Kum Reserve Lands or Natural Resources, excluding property tax revenues, or to commit, by contract or otherwise, to expend these revenues, unless the expenditure is authorized by an approved Budget.

Financial Policy.

- 19.14 The Wei Wai Kum First Nation may by Resolution, in accordance with this Land Code, adopt a financial policy to further manage revenues related to Wei Wai Kum Reserve Land and Natural Resources but the Land Code prevails to the extent of any conflict.

20. FINANCIAL RECORDS

Financial Records.

- 20.1 Wei Wai Kum First Nation shall keep financial records related to Budgets, revenues, and expenditures in accordance with generally accepted accounting principles and in accordance with the Wei Wai Kum Financial Policy.

Offences.

- 20.2 A Person is guilty of an offence if the Person
- (a) impedes or obstructs a Member from exercising their right to inspect the financial records of Wei Wai Kum First Nation; or
 - (b) has control of the books or account or financial records of Wei Wai Kum First Nation and fails to give all reasonable assistance to a Member exercising their right to inspect the financial records.

Preparation of financial statement.

- 20.3 After the end of each quarter of each fiscal year, the Wei Wai Kum Finance Department will prepare a financial statement in comparative form containing:
- (a) a balance sheet;
 - (b) a statement of revenues and expenditures and a comparison of these with the amounts stated in the Budget and any duly approved supplementary Budget; and
 - (c) any other information necessary for a fair presentation of the financial position of Wei Wai Kum First Nation in relation to Wei Wai Kum Reserve Lands and Natural Resources.

Consolidated accounts, etc.

- 20.4 The accounting, auditing and reporting requirements of this Land Code may be consolidated with other accounts, audits and reports provided that the statement and analysis relating to Wei Wai Kum Reserve Lands are clearly distinguished and documented.

21. AUDIT

Appointment of auditor.

- 21.1 For each fiscal year, a duly accredited auditor shall be appointed by Resolution to audit the financial records of Wei Wai Kum First Nation relating to Wei Wai Kum Reserve Land and Natural Resources.

Holding office.

- 21.2 The auditor appointed under this section holds office until reappointed, or replaced.

Vacancy in office.

- 21.3 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.

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

Duty of auditor.

- 21.5 The auditor shall, within 120 days after the end of Wei Wai Kum First Nation's fiscal year, prepare and submit to the Council, a report on Wei Wai Kum First Nation's financial statement, stating whether, in the opinion of the auditor, the financial statement presents fairly the

financial position of Wei Wai Kum First Nation in accordance with generally accepted accounting principles applied on a basis consistent with that applied in the previous fiscal year.

Access to records.

21.6 In order to prepare the report on Wei Wai Kum First Nation's financial statement, the auditor may at all reasonable times inspect any financial records of Wei Wai Kum First Nation and any Person or body who administers money on behalf of Wei Wai Kum First Nation.

Explanation of auditor's report.

21.7 The Council shall present the auditor's report to the Members at a meeting of Members.

22. ANNUAL REPORT

Publish annual report.

22.1 The Council, on behalf of the Wei Wai Kum First Nation, shall publish an annual report on lands issues prepared by the Lands Administrator within one month of receipt of the audit by Council under subsection 21.5.

Contents.

22.2 The annual report will include

- (a) an annual review of Wei Wai Kum Reserve Land management activities;
- (b) a copy and explanation of the audit as it applies to Wei Wai Kum Reserve Lands; and
- (c) any other matter as may be directed by Council or reasonably requested by the Lands Committee.

23. ACCESS TO INFORMATION

Access.

23.1 Any Member may, during normal business hours at the main administrative office of Wei Wai Kum First Nation, have reasonable access to

- (a) the register of Laws;
- (b) the auditor's report in Part 21 above; and
- (c) the annual report on lands issues in Part 22 above;

Access to records.

- 23.2** Any Member authorized by the Council by Resolution may, at any reasonable time, inspect the financial records during regular business hours of Wei Wai Kum First Nation related to Wei Wai Kum Reserve Land.

PART 6 - LAND ADMINISTRATION

24. LANDS COMMITTEE

Lands Committee established.

- 24.1** The Lands Committee is hereby established to
- (a) assist with the development of the land administration system;
 - (b) advise the Council and staff on matters respecting Wei Wai Kum Reserve Land;
 - (c) recommend Laws, Resolutions, policies and practices respecting Wei Wai Kum Reserve Land to the Council;
 - (d) assist in holding regular and special meetings of Members to discuss land issues and make recommendations to Council on the resolution of any significant land issues;
 - (e) assist in the flow of information on land issues between Members and the Council;
 - (f) oversee community approvals by Ratification Vote under this Land Code;
 - (g) oversee other consultations under this Land Code; and
 - (h) perform such other duties and functions as Council may direct.

25. MEMBERSHIP OF THE LANDS COMMITTEE

Composition.

- 25.1** The Lands Committee shall be composed of 5 Members, all of whom must be Eligible Voters.

Eligibility to be a Lands Committee Member.

- 25.2** Any Eligible Voter, whether resident on or off Wei Wai Kum Reserve 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 within the last 5 years, except in relation to aboriginal hunting or fishing rights; and

- (b) 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.

25.3 The Members of the Lands Committee will be appointed by Council by Resolution.

- (a) Prior to appointing Committee members, Council shall invite potential Committee members to submit current resume to the Band Office, with a brief expression of interest and outline of related skills and experience.
- (b) In appointing Committee members, Council shall:
 - (i) Make reasonable efforts to ensure balanced representative from different families and from youth and elders; and
 - (ii) Appoint individuals who knowledgeable about lands and the community and who have stated they have the time and interest to fully participate in the Committee.
- (c) The Committee members who are in place at the time the Land Code comes into effect shall remain in office.

Term of Office and Vacancy.

25.4 A member of the Lands Committee will serve in office until that member:

- (a) resigns in writing from office of his or her own accord;
- (b) is or becomes ineligible under subsection 25.2;
- (c) is or becomes ineligible because of a transfer of Membership from the Wei Wai Kum First Nation;
- (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 in writing by the Lands Administrator or Lands Committee;
- (e) is the member of the Lands Advisory Committee appointed under section 25.3 and ceases to be a member of Council;
- (f) is removed by Council Resolution, including if this removal is recommended by other members of the Committee;
- (g) dies or becomes mentally incompetent; or
- (h) is otherwise unable to fulfill their term.

Filling of Vacancy.

- 25.5 Where the office of a member of the Lands Committee becomes vacant, the vacancy will be filled in accordance with section 25.3.

26. EX OFFICIO COUNCIL MEMBER AND CHAIRPERSON OF THE COMMITTEE

- 26.1 Council will, by Resolution, appoint a member of Council to be a non-voting, ex officio member of the Land Committee and this Council member will be the Chairperson of the Lands Committee.

Alternate Chairperson.

- 26.2 If the Chairperson is unable to attend a meeting, the Lands Committee shall appoint another member of the Lands Committee to act as the Chairperson for that meeting.

Duties of the Chairperson.

- 26.3 The Chairperson shall:
- (a) chair meetings of the Committee;
 - (b) ensure that there is an agenda prepared and circulated to Committee members in advance of each meeting and that the agenda is followed, as amended, at each meeting;
 - (c) ensure that financial statements relating to the activities of the Committee, are prepared and tabled with Council;
 - (d) report to Council and Members on the activities of the Committee and ensure that written recommendations are provided to Council in a timely manner on key issues in accordance with section 24.1;
 - (e) monitor the presentation of the annual report under section 22; and
 - (f) perform such other duties as Council or the Committee may reasonably prescribe.

27. REVENUE FROM LANDS

Determination of fees and rent.

- 27.1 The Lands Administrator in consultation with the Lands Committee will recommend to Council processes and proposed fees and rates for:
- (a) any application, grant of interest, payment, fee, rent, royalty or other amount relating to a Law, process or grant under this Land Code; and
 - (b) the fees for services provided by Wei Wai Kum staff or contractors in relation to any Wei Wai Kum Reserve Land.

28. REGISTRATION OF INTERESTS

Enforcement of Interests.

- 28.1** An Interest in Wei Wai Kum Reserve Land created or granted after this Land Code takes effect is not enforceable unless it is registered in the First Nation Lands Register.

Duty to deposit.

- 28.2** Every Person who receives, assigns, encumbers or transfers an Interest in Wei Wai Kum Reserve Land shall bring or send an original copy of the relevant Instrument to the Wei Wai Kum Lands Office for registration in the First Nation Land Register.

Registration of consent or approval.

- 28.3** No instrument that requires the consent of the Council, or community approval by a Ratification Vote, may be registered unless a certified copy of the document that records the consent or approval is attached to the Instrument.

Duty to deposit.

- 28.4** Provided Council or the Lands Administrator has a registerable copy of the following Instruments, Council or the Lands Administrator shall ensure that a copy of the following Instruments is deposited in the First Nation Land Register:
- (a) any grant of an Interest in Wei Wai Kum Reserve Land;
 - (b) any transfer, assignment or encumbrance of an Interest in Wei Wai Kum Reserve Land;
 - (c) every land use plan, subdivision plan or resource use plan; and
 - (d) this Land Code and any amendment to this Land Code.

29. DUPLICATE LANDS REGISTER

Duplicate register.

- 29.1** Council may direct by resolution that the First Nation maintain a duplicate land register in the same form and with the same content as the First Nation Land Register.

PART 7 - INTERESTS IN LAND

30. LIMITS ON INTERESTS

All dispositions in writing.

- 30.1** An Interest in Wei Wai Kum Reserve Land may only be created, granted, disposed of, assigned, encumbered or transferred by an Instrument in accordance with this Land Code.

Standards.

- 30.2** Council may, after full and fair consideration of any recommendation made by the Lands Administrator and the Committee, establish mandatory standards, criteria and forms for Interests in Wei Wai Kum Reserve Lands.

Improper transactions void.

- 30.3** A deed, lease, contract, Instrument, document or agreement of any kind, whether written or oral, by which Wei Wai Kum First Nation, a Member or any other Person purports to grant, dispose of, transfer, encumber or assign an Interest in Wei Wai Kum Reserve Land after the date this Land Code takes effect is void if it contravenes this Land Code.

Non-Members.

- 30.4** A Person who is not a Member may never hold or receive an Allotment or CP in Wei Wai Kum Reserve Land but may hold a lease, license, easement, permit, mortgage or similar Interest in Wei Wai Kum Reserve Land subject to this Land Code and any relevant Laws.

Granting to non-Members.

- 30.5** A Council Resolution must be obtained for any granting, transfer, encumbrance or disposition of a lease, license, easement or permit in Wei Wai Kum Reserve Land to a Person who is not a Member.

31. EXISTING INTERESTS

Continuation of Existing Interests

- 31.1** (a) Interests including, Allotments, CPs, leases, licences and permits in Wei Wai Kum Reserve Lands approved, created, granted or issued pursuant to the *Indian Act* and existing as of the date this Land Code comes into force shall continue to have effect in accordance with their original terms and conditions but shall comply with this Land Code and any Laws passed under it;
- (b) where an Interest described in section 31.1 includes or requires an action to be taken by the Minister or the Queen in right of Canada the responsibility for such action after the

date this Land Code comes into force shall be with Council who may delegate it by Resolution to the Lands Administrator;

- (c) all new and pre-existing Interests are subject to this Land Code and to any relevant Laws, Land Use Plan, Laws, policies and regulations passed in relation to this Land Code and for greater certainty, the First Nation, is not liable for any decrease in value or use of an Interest arising in relation to a Law, Land Use Plan, regulation or policy duly passed in relation to this Land Code; and
- (e) Council may, subject to any applicable ruling under Part 8 or by a court of competent jurisdiction, cancel or correct any Interest issued or allotted in error or by fraud.

32. NEW INTERESTS

Authority to make dispositions.

32.1 Subject to the requirements of this Land Code, the Council may by Law or Resolution, on behalf of Wei Wai Kum First Nation, grant:

- (a) Interests in Band Lands and, with the consent of the CP-holder, from lands that are subject to a CP.; and
- (b) permits to take Natural Resources from Wei Wai Kum Reserve Lands including, with the consent of the CP-holder, from lands that are subject to an Allotment or CP.

32.2 Subject to the requirements of this Land Code, and any applicable land use plans and laws, a CP-Holder may grant an Interest in the lands that are subject to their CP.

Conditional granting.

32.3 The granting of an Interest may be made subject to the satisfaction of written conditions, and Council or a CP-holder may attach specific conditions to the grant of an Interest but any such conditions must be set out in writing in the granting of the Interest.

Role of the Lands Committee.

32.4 The Lands Committee shall advise Council on the granting of Interests.

33. CERTIFICATES OF POSSESSION

Nature of interest in CP.

33.1 Subject to this Land Code and any Laws, land use plans or regulations, Resolutions or policies passed under it, a Member holding a Certificate of Possession has the following rights and responsibilities:

- (a) possession of the land;

- (b) the right to transfer, devise or otherwise dispose of their CP to another Member; and
- (c) any other rights and responsibilities set out in the Land Code or Laws.

34. PROCESS AND ALLOCATION OF LOTS

Allotments and CPs

- 34.1** Subject to this Land Code and any relevant Laws, Land Use Plans and policies approved by Resolution, Council may by Resolution grant Allotments and CPs to Members for Residential Use.

Allocation of Lots

- 34.2** No community approval or Ratification Vote is required for the granting of an Allotment or issuance of a CP to a Member for Residential Use provided Council grants the Allotment or issues the CP by Resolution and in compliance with this Land Code and any Allotment Laws, Land Use Plans, and policies approved by Resolution.

Issuance of CP.

- 34.3** The Council may issue a Certificate of Possession to a Member for a lot for which a Member has received an Allotment once a Member has met the necessary conditions and requirements.

Cancellation of a CP

- 34.4** Council may, by Resolution, cancel an Allotment or CP that was issued under this Land Code in error or in violation of this Land Code provided that:
- (a) Council gives the holder at least 30 (thirty) days written notice of an intention to cancel and provides the holder an opportunity to make submissions and arguments;
 - (b) Council consults with the Lands Administrator and the Committee; and
 - (c) Council in the Resolution sets out the justification or necessity of cancelling the Allotment or CP, such justifications or necessities which may include, but are not limited to:
 - (i) the CP or Allotment was issued in error to a non-Member;
 - (ii) the CP or Allotment was issued with conditions under section 34.2 and the conditions were not met; or
 - (iii) the CP or Allotment was issued to a Person who was a Member at the time of the issuance but later became a non-Member.

35. TRANSFER, USE AND ASSIGNMENT OF INTERESTS

Transfer and Use of CPs.

- 35.1** A Member may transfer or assign a Certificate of Possession on Wei Wai Kum Reserve Land to another Member without the need for any community approval or consent of the Council but all such transfers must be registered in the First Nation Land Registry to take effect.
- 35.2** CP lands and structures on them may be rented for residential purposes but not leased for commercial, industrial or other purposes, except in compliance with a land use plan.

Consent of Council.

- 35.3** Except for transfers under section 35.1, 35.4 or 35.5 and transfers that occur by operation of law such as transfers through wills, estates or spousal property,
- (a) there shall be no transfer or assignment of an Interest in Wei Wai Kum Reserve Land without the written consent of the Council by Resolution; and
 - (b) the grant, transfer or assignment of an Interest is deemed to include section 35.3(a) as a condition on any subsequent grants, transfers or assignments.

Ceasing to be a Member

- 35.4** A person who ceases to be a Member shall within 6 (six) months from the day they cease to be a Member transfer any Allotment or CP they hold to Wei Wai Kum or another Member.
- 35.5** Where a Member does not transfer their Allotment or CP in accordance with section 35.4, the Allotment and any CP issued shall, six months and one day after the person ceases to be a Member, be cancelled and the Wei Wai Kum Lands described in the Allotment and any CP shall automatically become Band Land.
- 35.6** Where an Allotment or CP reverts to Wei Wai Kum under section 35.5,
- (a) the person ceasing to be a Member shall remain liable for any obligations or monies owing pursuant to any Interest they held prior to the date the Allotment or CP reverts to Wei Wai Kum; and
 - (b) any valid leases or other Interests held by third parties will continue on the former Allotment or CP that reverts to Wei Wai Kum until their term expires or they reach a negotiated agreement with Wei Wai Kum to terminate or modify their Interest.

36. LIMITS ON MORTGAGES AND SEIZURES

Protections.

- 36.1 In accordance with the Framework Agreement, section 29, section 87 and subsections 89(1) and (2) of the *Indian Act* continue to apply to Wei Wai Kum Reserve Land.

Mortgages of leasehold interests.

- 36.2 A leasehold interest may be subject to charge or mortgage.

Time limit.

- 36.3 The term of any charge or mortgage of a leasehold interest shall not exceed the term of the lease.

Default in mortgage.

- 36.4 In the event of default in the terms of a charge or mortgage of a leasehold interest, the leasehold interest 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 was registered in the First Nation Land Register; and
 - (b) a reasonable opportunity to redeem the charge or mortgage was given to the Council on behalf of Wei Wai Kum First Nation.

Power of redemption.

- 36.5 If the Council exercises its power of redemption with respect to a leasehold interest, Wei Wai Kum First Nation becomes the lessee of the land or interest and takes the position of the chargee or mortgagor for all purposes after the date of the redemption.

Trespass.

- 36.6 Any Person who resides on, enters or remains on Wei Wai Kum Reserve Land other than in accordance with a residence or access right under this Land Code or a related Law is guilty of an offence and may, in addition to other remedies, be ordered evicted or removed by Resolution enforceable by any peace officer or enforcement official designated by Council by Resolution.

37. TRANSFERS ON DEATH

- 37.1 Subject to any applicable federal or provincial laws, if a Member holding an interest in Wei Wai Kum Reserve Land dies and no provision has been made by the deceased Member for the disposition of that interest in the Wei Wai Kum Reserve Land to another Member, the following rules apply:

- (a) the Council shall take reasonable steps to notify the deceased's Immediate Relatives that the Interest held by the deceased is available;
- (b) the deceased's Immediate Relatives may decide who among them should receive the Interest and may make a recommendation to Indian Affairs and to Council; and
- (c) If the deceased left no Immediate Relatives or heirs and no will, the Interest will revert to the First Nation as Band Land and if it is an Allotment or CP, will go back into the pools of lands for Allotment to Members who do not have one.

38. SPOUSAL PROPERTY LAW

Development of rules and procedures.

38.1 The Council shall enact a spousal property Law providing rules and procedures applicable, on the breakdown of a marriage, to

- (a) the use, occupancy and possession of Wei Wai Kum Reserve 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.

Enactment deadline.

38.3 The spousal property Law must be enacted within 12 (twelve) months from the date this Land Code takes effect.

General principles.

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

- (a) regard for the best interests of any children of the marriage and compliance with any related court orders;
- (b) in general, each spouse should have an equal right to possession of their matrimonial home;
- (c) in general each spouse should be entitled to an undivided half interest in their matrimonial home, as a tenant in common;
- (d) the rules and procedures shall not discriminate on the basis of sex; and

- (e) only Members are entitled to hold an Allotment or Certificate of Possession in Wei Wai Kum Reserve Land or a charge against an Allotment of CP in Wei Wai Kum Reserve Land.

Interim Law.

38.5 In order that Members benefit immediately from the legislative authority of the Council to address the issue of spousal property under this Land Code, the Council may enact a spousal property Law as soon as this Land Code comes into force but any such Law will expire at the end of the 12 month period after the coming into force of this Land Code, unless re-enacted, replaced or amended in accordance with section 41.1 and 41.4.

PART 8 - DISPUTE RESOLUTION

39. DISPUTE RESOLUTION

39.1 It is intended that all parties to disputes will:

- (a) Cooperate with each other to develop harmonious relationships;
- (b) Prevent or minimize disputes or further disputes;
- (c) Work together to resolve disputes in a non-adverarial, collaborative and informal atmosphere; and
- (d) Work together to resolve disputes in the quickest and cheapest manner possible.

39.2 Except as otherwise provided in this Part, disputes in relation to Wei Wai Kum Reserve Lands, an Interest in Wei Wai Kum Reserve Lands or the interpretation or application of this Land Code shall be determined as follows:

- (a) The parties to the dispute may agree the dispute may be determined by mediation; arbitration or other dispute resolution mechanism agreed to by the parties; or
- (b) If the parties to the dispute do not agree on a dispute resolution mechanism:
 - (i) one or more of the parties may request the British Columbia International Commercial Arbitration Centre to appoint an arbitrator under the Centre's shorter rules or to appoint an independent individual to act as an Adjudicator under this Land Code; or
 - (ii) one or more of the parties may refer the matter to a court of competent jurisdiction.

Prior Disputes

- 39.3 Disputes of the kind set out in subsection 39.2 that originated before this Land Code comes into effect may be referred to a process set out in subsection 41.2.

40. ADJUDICATOR OF DISPUTES

Adjudicator Established

- 40.1 The office of the Adjudicator is hereby established to hear and resolve disputes in relation to Wei Wai Kum Lands in accordance with the Land Code and relevant Wei Wai Kum Laws and policies.
- 40.2 Any Adjudicator will be a Barrister and Solicitor and a member of the British Columbia Bar who is independent of the parties to a dispute and to other interests in the dispute.

41. DISPUTE RESOLUTION PROCEDURE

Informal Resolution of Disputes

- 41.1 Wei Wai Kum intends that whenever possible, a dispute in relation to Wei Wai Kum Reserve Lands, an interest in Wei Wai Kum Reserve Lands or the interpretation or application of this Land Code will be resolved through informal discussion by the parties to the dispute and nothing in this Part is intended to limit of the parties resolving dispute informally.
- 41.2 The parties to a dispute in relation to Wei Wai Kum Reserve Lands, after demonstrating they have made efforts to resolve the dispute under subsection 41.1, may:
- (a) refer the matter themselves under subsection 39.2 to the British Columbia International Commercial Arbitration Centre or a court; or
 - (b) notify Council that they wish to refer the dispute to the Adjudicator to assist in resolving it.

Appointment of Adjudicator

- 41.3 (a) Where Council receives notification under section 41.2, Council will appoint the Adjudicator by Resolution within 15 days to settle any dispute under this Part.
- (b) Where any party to a dispute disagrees with the independence or timeliness of the appointment of an Adjudicator under subsection 41.3(a) above, that party may contact the British Columbia International Commercial Arbitration Centre to request the appointment of an arbitrator under the Centre's shorter rules or an Adjudicator under

this Land Code.

Optional Process

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

Application Procedure

- 41.5 Subject to subsection 41.4, referral of a dispute to the Adjudicator will be made in accordance with procedures established by Council by Resolution in consultation with the Lands Committee.

Limitation Period

- 41.6 Unless otherwise ordered by a court, the limitation period for referring a dispute to an arbitrator or Adjudicator under this Part is the longer of:
- (a) Thirty days after the day the decision, act or omission that is the subject of the dispute occurred;
 - (b) In the case of a dispute under section 40 (transfer on death), twelve months after the date of the final decision or recommendation of Council under that section;
 - (c) In the case of historical grievances not involving the Department of Aboriginal Affairs and Northern Development (formerly INAC), within twelve months of the Effective Date of this Land Code; and
 - (d) For any other disputes, such reasonable time period as Council may decide on the merits of each situation.

Offence

- 41.7 It is an offence for a Person to act, or attempt to act, in an improper way to influence a decision of an arbitrator or Adjudicator under this Part.

Rejection of Application

- 41.8 The Adjudicator may refuse to hear or decide an application:
- (a) If regardless of whether a person has been found to have committed an offence under section 41.7, the Adjudicator reasonably concludes that the applicant acted, or attempted to act, in a way to improperly influence the Adjudicator's decision; or

- (b) One or more of the parties refuse to accept the Adjudicator's proposal to retain professionals who are, in reasonable opinion of the Adjudicator, required to resolve the dispute.

42. POWERS OF ADJUDICATOR AND ARBITRATOR

Power of Adjudicator or Arbitrator

- 42.1** Subject to this Land Code and any applicable laws and rules, an Adjudicator or Arbitrator may, after hearing a dispute:
 - (a) confirm or reverse the decision in dispute, in whole or in part;
 - (b) substitute his or her own decision for the decision in dispute;
 - (c) direct that an action be taken or ceased;
 - (d) refer the matter or dispute for reconsideration by the decision-maker; or
 - (e) refer the matter to a tribal justice, community forum or other forum.
- 42.2** An Adjudicator or arbitrator has the authority, at any time, to order one, both, or all of the Parties to pay some or all of the costs of the adjudication process, including but not limited to the costs of the Adjudicator or arbitrator and any professionals retained, taking into account:
 - (a) the reasonableness of the Parties in their positions;
 - (b) the conduct of the Parties;
 - (c) the results of the adjudication or arbitration;
 - (d) the use of professional services; and
 - (e) any other relevant factor.
- 42.3** An order from an Adjudicator or arbitrator may be entered into court and enforced through the court.

43. ADJUDICATION PROCEDURES

Rules of Adjudicator

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

Professional Services

- 43.2 Prior to retaining the services of any professionals to assist in fulfilling his or her functions, the Adjudicator will notify the Parties to the dispute of the proposed professionals and their estimated services and costs.
- 43.3 Upon agreement of the Parties, the Adjudicator may retain the services of professionals to assist in fulfilling his or her functions, in which case they will make best efforts to use professional services available in the community who do not have a conflict of interest.

Decisions

- 43.4 The Adjudicator will give written reason for a decision and will sign the written reasons.
- 43.5 Subject to section 43.6, a decision of the Adjudicator is binding.

Appeal of decisions

- 43.6 Subject to any exception established by a Law, a decision of an Adjudicator or arbitrator may be appealed to a court of competent jurisdiction.

Costs

- 43.7 Unless otherwise ordered by an arbitrator the Adjudicator or an appellate court, the parties to a dispute will bear their own costs and an equal share of the costs of adjudication or arbitration process.
- 43.8 For greater certainty, Wei Wai Kum will not be liable or responsible for the costs of any dispute resolution process where Wei Wai Kum is not a party.

Alternate Forums

- 43.9 Nothing in this part precludes Council or the Lands Committee from establishing additional processes for resolving disputes under this Part, which may include facilitated discussion, mediation, arbitration, or referral to tribal justice, a community forum, or other forum.

PART 9 - OTHER MATTERS

44. LIABILITY AND INSURANCE

Liability Coverage.

- 44.1 The Council shall arrange, maintain and pay, insurance coverage for its officers, employees and committee members engaged in carrying out any matter related to Wei Wai Kum Reserve Land to indemnify them against personal liability arising from the performance of those duties.

Extent of coverage.

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

Bonding.

44.3 Every employee, officer or contractor of Wei Wai Kum First Nation whose responsibilities include land administration or collecting or accounting for land revenue must be bondable.

45. OFFENCES AND ENFORCEMENT

Application of the Criminal Code.

45.1 Unless some other procedure is provided for by a 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 Law.

Other Offences and Penalties.

45.2 Despite paragraph 45.1:

- (a) a Law may provide for fines of up to \$100,000 for violations of specified provisions of the Law; and
- (b) a Law may provide for a variety of enforcement mechanisms including ticketing, stop work orders, restorative orders, and fines.

Enforcement.

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

- (a) If no justice of the peace is appointed, this Land Code and Laws are to be enforced by a court of competent jurisdiction; and
- (b) Council may enact Laws or develop policies to enable appropriate enforcement issues and disputes to be dealt with through community justice process.

45.4 Council may enact Laws to create ticketing processes or similar enforcement mechanisms or to incorporate such processes or enforcement mechanisms from provincial or local government sources.

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46. AMENDMENTS TO LAND CODE

Community approval.

- 46.1 This Land Code may be amended from time to time.
- 46.2 All major amendments to this Land Code, not including minor amendments to correct typographical errors or remedy inconsistencies, must receive community approval by Ratification Vote.

Verifier.

- 46.3 A verifier is not required in a Ratification Vote on an amendment.

47. COMMENCEMENT

Preconditions.

- 47.1 This Land Code shall not take effect unless
- (a) the community approves this Land Code and the Individual Agreement via a Ratification Vote and this Land Code has been certified by the Verifier pursuant to the Framework Agreement;
 - (b) a duly authorized representative of Indian and Northern Affairs has signed the Individual Agreement; and
 - (c) the Council has reviewed the Individual Agreement to assess the adequacy of funding for land management and has passed a Resolution confirming that the Land Code is in effect.
- 47.2 Subject to section 47.1, this Land Code shall take effect on the later date of:
- (a) the first day of the sixth month following a successful Ratification Vote on the Land Code as certified by the Verifier; or
 - (b) the date the Land Code is approved by the Minister of Indian Affairs and the Minister signs the Individual agreement on behalf of Canada.