

Snaw-naw-as Peoples
Te'mewx Snaw-naw-as Mustimuxw
(LAND CODE)
April, 2011

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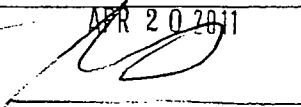
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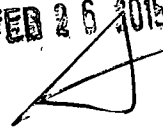
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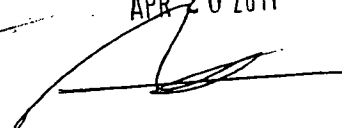
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PREAMBLE

We the Snaw-naw-as peoples have existed for thousands of years as self-sustaining peoples with developed social structures. It is hereby recognized that Snaw-naw-as people have used and occupied our traditional territories since time immemorial;

The Snaw-naw-as peoples are spiritually, physically, emotionally and mentally connected to the land, sea, and resources and our spiritual and sacred sites;

The Snaw-naw-as peoples have inherent and Aboriginal rights and title that has never been relinquished or surrendered;

The Snaw-naw-as peoples are the descendants of Snaw-naw-as (Nanoose) Bob aka Tsul-sil-lum, Nucomis who was the sole male survivor of the 1823 massacre;

The Snaw-naw-as peoples have our own laws, customs and traditional governance systems which provide the foundation for our decision-making processes and structure our culture and society; and

We the Snaw-naw-as peoples live through our spiritual and sacred connection to the air, land, sea, and resources, to protect our future, our children and those yet unborn;

NOW THEREFORE the Council of Nanoose First Nation, the Snaw-naw-as peoples, duly enact the Snaw-naw-as peoples – *Te'mewx Snaw-naw-as Mustimuxw* (Land Code):

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PART 1

PRELIMINARY MATTERS

1. Title

General

- 1.1 This enactment may be referred to as the *Te'mewx Snaw-naw-as Mustimuxw*, or for short form, the Land Code.

Aboriginal Rights and Title

- 1.2 The Snaw-naw-as peoples are part of the Coast Salish First Nations, and are a member of the Saalequum tribe which has used and occupied our traditional territory – Saalequum Te'mexw – since time immemorial.
- 1.3 The Snaw-naw-as peoples have never ceded, surrendered, or in any way relinquished our inherent and aboriginal rights and title, and continue to assert and exercise our rights, title, and interests over our traditional territory, Saalequum Te'mexw.
- 1.4 The Snaw-naw-as peoples are committed to protecting the inherent and Aboriginal rights, title and interests of the Snaw-naw-as peoples and members.
- 1.5 The Land Code shall provide a method for the members of Snaw-naw-as peoples to exercise our inherent right of self government, and provide for governance that is accessible, stable, effective, accountable and transparent.

2. Interpretation

Definitions

- 2.1 The following definitions apply in this Land Code:

“Coast Salish” means a cultural or ethnographic designation of a subgroup of the First Nations in British Columbia, Canada and Native Americans in Washington and Oregon, United States of America, who speak one of the Coast Salish languages;

“community land” means any Nanoose First Nation land in which all members have a common interest”;

“Council” means the Chief and Council of the Nanoose First Nation;

“eligible voter” means, for the purpose of voting in respect of land matters under this Land Code, a member who has attained the age of 18 years of age on the day of the vote;

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“extended family”, in respect of a person, means the person’s grandparent, parent, uncle, aunt, cousin, sister, brother, child, grandchild or spouse;

“families”, means the families of Mr. and/or Mrs. Jim Bob Sr., Carl Bob Sr., Tob Bob Jr., Wilson Bob Jr., Wayne Edwards;

“First Nation land” or “land” means any portion of a reserve that is subject to this Land Code under section 5, and includes the lands and all resources that belong to the land, including:

- (a) the water, beds underlying water, riparian rights, minerals and subsurface resources, and all other renewable and non-renewable natural resources belonging to that land, to the extent that these are under the jurisdiction of Canada or the Snaw-naw-as peoples; and
- (b) all the interests and licenses granted to the Snaw-naw-as peoples by her Majesty in right/the Government of Canada listed in the Transfer Agreement.

“First Nations Land Register” means the register maintained by the Department of Indian Affairs and Northern Development under the Framework Agreement and the *First Nations Land Management Act*;

“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, including the Nanoose First Nation, on February 12, 1996, as amended;

“immediate relatives”, in respect of a person, means the person’s parent, sister, brother, child or spouse;

“Lands Committee” means the Lands Committee established under this Land Code;

“law” means a law enacted pursuant to this Land Code;

“meeting of members” means a meeting under section 12 to which the members are invited to attend;

“member” means a person whose name appears or is entitled to appear on the Nanoose First Nation Band Membership List;

“Panel” means the Dispute Resolution Panel established under section 39;

“ratification vote” means a vote of eligible voters under section 13;

“resolution” means a resolution of the Council enacted under this Land Code;

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“resources” means renewable and non-renewable resources, and includes sub-surface resources, minerals, air and water;

“Saalequum” means the Saalequum Tribe, which is the Nanoose and Nanaimo tribe that signed the Douglas Treaty in 1854;

“Snaw-naw-as or Snaw-naw-as peoples” means the Nanoose First Nation;

“spouse” means a person who is married to another person, whether by a traditional, religious or civil ceremony, and includes a common-law spouse;

“Te’mewx” means the land that the Snaw-naw-as use or occupy, known as our traditional territory;

“Te’mewx Snaw-naw-as Mustimuxw” means the Nanoose First Nation Land Code;

“Transfer Agreement” means the agreement entered into between the Snaw-naw-as and the Government of Canada pursuant to section 6(3) of the the *First Nations Land Management Act* and section 6.1 of the Framework Agreement;

Paramouncy

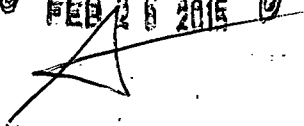
- 2.2. If there is an inconsistency or conflict between this Land Code and any other enactment of the Snaw-naw-as peoples, this Land Code prevails to the extent of the inconsistency.
- 2.3. If there is an inconsistency or conflict between this Act and the Framework Agreement, the Framework Agreement will prevail to the extent of the inconsistency or conflict.

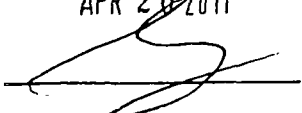
Culture and traditions

- 2.4 The structures, organizations, laws and procedures established by or under the Land Code shall be interpreted in accordance with the culture, traditions, and customs of the Snaw-naw-as peoples, unless otherwise provided.

Language

- 2.5 The language of the Snaw-naw-as peoples may be used to clarify the meaning of any provision in this Land Code, if the meaning of that provision is not clear in English.

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Non-abrogation

- 2.6 The Land Code shall in no way abrogate or derogate from any inherent, Aboriginal, treaty, specific claim, or other rights or freedoms that pertain now or in the future to the Snaw-naw-as peoples or our members.
- 2.7 The Land Code shall in no way affect the eligibility of the Snaw-naw-as peoples or any member to receive services or participate in public or Aboriginal programs as may be established, from time to time, to the extent that the Snaw-naw-as peoples have not assumed responsibility for such services or programs.

Fiduciary relationship

- 2.8 This Land Code shall in no way abrogate or derogate the fiduciary relationship between Her Majesty and the Snaw-naw-as peoples and our members.

Interpretation

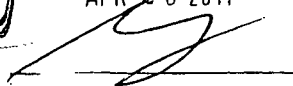
- 2.9 This Land Code shall be interpreted in a fair, large and liberal manner, and any ambiguities are to be resolved in favor of the Snaw-naw-as peoples.
- 2.10 Unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”.
- 2.11 Headings and subheadings are for convenience only, do not form a part of this Land Code and in no way define, limit, or alter the scope or meaning of any provision of this Land Code.
- 2.12 A reference to a statute includes every amendment to it, every regulation made under it and any law enacted in substitution for it or in replacement of it.
- 2.13 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.
- 2.14 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.

Time

- 2.15 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.

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- 2.16 Where the time limited for the doing of an act in the 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.
- 2.17 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.

3. Authority to Govern

Origin of authority

- 3.1 The traditional teachings of the Snaw-naw-as peoples speak of our obligation to recognize, respect and protect the lands, waters, air and resources and all of the magnificent wonders of Nature created on the Earth. By enacting the Land Code, the Snaw-naw-as peoples are confirming our role as traditional stewards by exercising our right and responsibility to live through our sacred connection and relationship with the Earth for the benefit of present and future generations.

Flow of authority

- 3.2 The authority of the Snaw-naw-as peoples to govern our lands and resources flow from the Creator to the Snaw-naw-as peoples, and from the Snaw-naw-as peoples to the Chief and Council according to our culture, traditions, customs, and laws.
- 3.3 By enacting and implementing the Land Code, we the Snaw-nas-as peoples are exercising our inherent right of self-government and providing governance that is accessible, stable, effective, accountable and transparent.

4. Purpose

Purpose

- 4.1 The purpose of the Land Code is to set out the general rules and procedures that apply to law-making related to the planning, conservation, protection, management, development, use and possession of First Nation land.
- 4.2 In order to give effect to the purpose, the Land Code provides:
- (a) an identification of the First Nation land which is to be governed by the Snaw-naw-as peoples;
 - (b) the general rules and procedures for the use and occupation of the First Nation land;

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- (c) the general rules relating to financial accountability for revenues from First Nation land, except in relation to oil and gas revenues;
 - (d) the procedures and requirements for making and publishing First Nation land laws;
 - (e) the rules regarding accountability, conflict of interests, and dispute resolution relating to First Nation land;
 - (f) the community process for developing rules and procedures that apply to First Nation land upon spousal breakdown;
 - (g) the procedures by which the Snaw-naw-as peoples can grant interests in First Nation land or acquire such land for community purposes;
 - (h) how land management responsibilities can be delegated; and
 - (i) the procedure for amending the Land Code.
- 4.3 The principles articulated in the preamble shall be used to guide the interpretation of this Land Code.

Ratification

- 4.4 The Framework Agreement is ratified and confirmed when this Land Code comes into effect.

5. Description of First Nation Land

First Nation land

- 5.1 Unless otherwise provided herein, the First Nation land that is subject to the Land Code is the all of the land legally described in the Individual Agreement.
- 5.2 For greater certainty, the definition of "First Nation land" in section 2.1 and the description of the First Nation's land in section 5.1 are not intended, and should not be construed, as an admission by the Snaw-naw-as peoples that those lands are the only lands over which the Nation holds Aboriginal rights and title.

Excluded lands

- 5.3 The land described as follows is excluded from the application of the Land Code:
- (a) First Nation land, or any portion thereof, which is in an environmentally unsound condition, unless it is subject to a complete environmental

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assessment and an environmental audit declares such land to be free of environmental hazard and safe for community use;

- (b) First Nation land, or any portion thereof, which is the subject of ongoing litigation unlikely to be resolved prior to submission of the Land Code for community approval;
- (c) First Nation land, or any portion thereof, which is uninhabitable or unusable as a result of natural disaster; and
- (d) other land whereby the Government of Canada and the Snaw-naw-as peoples agree shall be justifiable excluded.

Additional lands

5.4 The following lands may be made subject to this Land Code after the applicable condition is met:

- (a) any land owned jointly by the Snaw-naw-as peoples and another First Nation, when the First Nations involved agree upon a joint management scheme for those lands;
- (b) any land or interest acquired by the Snaw-naw-as peoples after this Land Code takes effect, whether by land claim, purchase or other process, when an environmental audit declares it free of environmental hazard and safe for community use.

Land exchange

5.5 For greater certainty, section 5.3 does not apply to land acquired by land exchange, which is governed by the process in section 16.8.

Inclusion of land or Interest

5.6 The Council shall call a meeting of members under section 12 to obtain their views on any proposed inclusion of lands before Council makes any law or Resolution to include lands referred to in sections 5.1 and 5.3 of the Land Code.

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PART 2

FIRST NATION LEGISLATION

6. Law-Making Powers

Council may make laws

- 6.1 The Lands Committee may make recommendations and proposals for laws to Council, and Council may make laws respecting:
- (a) the development, conservation, protection, management, use and possession of, and planning for First Nation land;
 - (b) interests and licenses to use First Nation land;
 - (c) the establishment, collection, administration, borrowing, saving and expenditure of any fees, charges, revenues, or other monies in relation to First Nation land;
 - (d) any matter necessary to give effect to the Land Code; and
 - (e) any matter necessary or ancillary to a law, or the making of laws in relation to First Nation land.

Laws requiring Community Consultation

- 6.2 The Council may make laws respecting the following, but only upon compliance with the community consultation process set out in Part 3:
- (a) developing or making of a land use plan, community plan, or subdivision plan, or any significant amendment thereto;
 - (b) the declaration of land or an interest referred to in section 5.1 or 5.3 to be subject to the Land Code;
 - (c) creating, regulating or prohibiting land uses and interests;
 - (d) environmental assessment and protection;
 - (e) heritage site or other environmentally sensitive property;
 - (f) transfer and assignment of interest in land, the rate and criteria for the payment of fees or rent for land;
 - (g) any voluntary exchange of First Nation land;

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- (h) expropriation;
- (i) setting aside and regulation of heritage lands and sacred sites;
- (j) any amendment to the Land Code; and
- (k) any other law or class of law that Council or the Land Committee, by Resolution, declare to be subject to this section.

Examples of Laws

- 6.3 Without limiting the generality of sections 6.1 and 6.2, Council may also make laws respecting the following;
- (a) the regulation, control and prohibition of zoning, land use planning, subdivision control, and development;
 - (b) the creation, regulation and prohibition of interests or land rights and licenses in relation to First Nation land;
 - (c) the provision of services in relation to First Nation land and the imposition of equitable user charges;
 - (d) the provision of services for the resolution, outside the courts, of disputes in relation to First Nation land;
 - (e) the purchase, acquisition or sale of lands in accordance with the Act and the Land Code;
 - (f) regulation, control, authorization and prohibition of residency, access, occupation and development of First Nation land;
 - (g) fees, stumpage, or royalties to be paid to the Snaw-naw-as peoples for the removal or extraction of resources from First Nation land including for removal or extraction of minerals, gravels and timber from community lands and from land Allotments or Certificate of Possession land;
 - (h) fees to be paid to the Snaw-naw-as peoples for permit or license applications or administrative processes;
 - (i) the provision of local services and the imposition of user charges including development cost charges or their equivalent;
 - (j) authorization and regulation of subdivisions including requirements for park dedications or grants in lieu of park dedications;

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- (k) the conduct of surveys of lands or interests;
- (l) setting aside, designation, regulation or management of parks, park lands and recreational lands;
- (m) rules and procedures for the receipt, management, expenditure, investment, and borrowing of moneys, and the establishment of administrative structure to manage such moneys;
- (n) creation of management and administrative bodies or agencies;
- (o) removal and punishment of persons trespassing upon First Nation lands or frequenting First Nation lands for prohibited purposes;
- (p) public nuisance and private nuisance;
- (q) regulation of sanitary conditions and the provision of sanitary services;
- (r) construction and maintenance of boundary and internal fences;
- (s) construction, maintenance and management of roads, water courses, water diversions, storm drains, bridges, ditches and other local and public works;
- (t) regulation of traffic and transportation;
- (u) regulation of hunting, fishing, and trapping, and the conservation, management and protection of fish and wildlife, habitat; and
- (v) use and storage of fireworks, firearms, weapons, and hazardous materials or substances.

7. Law-Making Procedure

Process for developing laws

- 7.1 The process for development of a law under the Land Code may be initiated by:
- (a) a Resolution by the Land Committee or by Council, setting out the specific subject matter of the proposed law to be developed; or
 - (b) a Petition presented to the Lands Committee signed by at least 25 eligible voters, setting out the request for development of a law addressing a specific subject matter or issue.

Land Committee role

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7.2 Upon initiation of a proposed law by Resolution or Petition, the Lands Committee shall provide notice to the membership of the subject matter of the proposed law, the reasons for the proposal, and the general nature of provisions to be included in the proposed law.

Introduction of proposed law

- 7.3 A proposed law may be introduced at a duly convened meeting of Council by:
- (a) a member of Council;
 - (b) the Lands Committee or a member of the Lands Committee;
 - (c) a community member or representative of any body or authority composed of members that is authorized by the Lands Committee to do so; or
 - (d) the Lands Manager.

Tabling and posting of proposed laws

- 7.4 A proposed law may be voted on by the Council only if it has been:
- (a) tabled at a Council meeting at least 30 days before the law is to be considered for approval by Council;
 - (b) posted in the Snaw-naw-as land office in a location to which the public has access and in any other public places on community land that the Council or Land Committee deems appropriate at least 21 days before the law is to be considered for approval by Council;
 - (c) published in the community newspaper or distributed to eligible voters at least 10 working days before it is considered by Council;
 - (d) reviewed by the Land Committee;
 - (e) provided for community consultation, where required; and
 - (f) in compliance with the Land Code.

Member comments

7.5 Members shall be entitled to review the proposed law and provide written comments to the Land Committee and Council prior to the law being considered for approval by Council. The Land Committee and Council shall each consider such comments prior to the approval of the law by Council.

Urgent matters

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- 7.6 The Council may enact a law without the procedures required above if Council, acting reasonably, believes that the law is required urgently to protect First Nation land or members, but the law expires 28 days after its enactment, unless re-enacted in accordance with sections 7.3 and 7.7.

Enactment of law

- 7.7 Subject to section 7.6, a law is enacted if there has been compliance with the Land Code and, at a duly convened and open Council meeting, where quorum is present, a majority of the Council present vote in favor of the law.

Administration

- 7.8 The Lands Committee shall perform all the duties and functions, and exercise all the powers of Snaw-naw-as peoples that are not specifically assigned to an individual or body established under the Land Code.

Delegation

- 7.9 The Council may, by enacting a law, delegate administrative authority to an individual or a body established or authorized under the Land Code.

Certification of laws

- 7.9 The original copy of any law or Resolution concerning First Nation land shall be signed by a quorum of the Council present at the meeting at which it is enacted.

8. Publication of Laws

Publication

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

Posting laws

- 8.2 Within 7 days after a law has been enacted, the Lands Committee shall post a copy of the law in the Snaw-naw-as lands office.

Registry of laws

- 8.3 Council shall maintain at the Snaw-naw-as the Snaw-naw-as administration office, a Register of Laws, containing the original copy of all laws and Council Resolutions, including those that have been repealed or are otherwise no longer in force, and the minutes of Council and Land Committee meetings in relation to the First Nation land laws.

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Public Access

8.4 Any person may, during regular business hours at the Snaw-naw-as lands office, have reasonable access to the Register of Laws.

Copies for any Person

8.5 Any person may obtain a copy of a law or the minutes of Council or the Lands Committee upon payment of such reasonable fee, if any, as may be set by Lands Committee or the Lands Manager.

9. Commencement of Laws

Laws taking effect

9.1 A Law comes into force on:

- (a) the date it is enacted; or
- (b) such other date as may be set by or under the law.

PART 3

COMMUNITY APPROVALS

10. Rights of Eligible Voters

Rights of eligible Voters

10.1 Each member who is at least 18 years of age, regardless of where they reside is eligible to vote at a community meeting of members and/or ratification vote.

11. Community Input

Prior meeting of Members

11.1 Subject to section 11.2, the Lands Committee shall convene a community meeting to receive input prior to the development of a law in relation to:

- (a) developing or making of a land use plan, community plan, or subdivision plan, or any significant amendment thereto;
- (b) the declaration of land or an interest referred to in section 5.1 or 5.3 to be subject to the Land Code;

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- (c) creating, regulating or prohibiting land uses and interests;
- (d) environmental assessment and protection;
- (e) heritage site or other environmentally sensitive property;
- (f) transfer and assignment of interest in land, the rate and criteria for the payment of fees or rent for land;
- (g) any voluntary exchange of First Nation land;
- (h) expropriation;
- (i) setting aside and regulation of heritage lands and sacred sites;
- (j) any amendment to the Land Code; and
- (k) any other law or class of law that Council or the Land Committee, by Resolution, declare to be subject to this section.

Process for Spousal Purposes

- 11.2 Provision for community participation in the making of rules and procedures on how to deal with interests in First Nation land if there is spousal separation or a marriage breakdown is dealt with under section 38, not section 11.1.

Process to Implement Laws

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

12. Community Approval at a Meeting of Members

Community approval by community meeting

- 12.1 Decisions at a community meeting of members are to be made by a majority vote of the eligible voters present at the meeting.

Notice of community meeting

- 12.2 The Council shall give written notice of the community meeting of members that:
- (a) specifies the date, time and place of the meeting; and

- (b) contains a brief description of the matters to be discussed and decided on at the meeting.

Manner of notice

- 12.3 Written notice of the meeting of members under clause 12.2 shall be given by:
- (a) posting the notice in public places on First Nation land at least 30 days before the meeting;
 - (b) mailing the notice to Members at least 30 days before the meeting; and
 - (c) such additional methods as the Council may consider appropriate.

Who may attend

- 12.4 All members have a right to attend a meeting of members, but other persons may attend with the permission of the Lands Committee.

Quorum

- 12.5 The quorum for a meeting of members under this Land Code is 25% of eligible voters, which quorum includes both on and off-reserve members

Other meetings

- 12.6 The Lands Committee may schedule more than one meeting of members to discuss and decide on a matter that requires a community meeting of members.

13. Ratification Votes

Community approval by ratification vote

- 13.1 Community approval by a ratification vote by a majority of eligible voters present at a community meeting must be obtained for the following:
- (a) developing or making of a land use plan, community plan, or subdivision plan, or any significant amendment thereto;
 - (b) declaration of land or an interest referred to in section 5.1 or 5.3 to be subject to the Land Code;
 - (c) creating, regulating or prohibiting land uses and interests;
 - (d) environmental assessment and protection;

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- (e) heritage site or other environmentally sensitive property;
- (f) transfer and assignment of interest in land, the rate and criteria for the payment of fees or rent for land;
- (g) any voluntary exchange of First Nation land;
- (h) expropriation;
- (i) setting aside and regulation of heritage lands and sacred sites;
- (j) any amendment to the Land Code; and
- (k) any other law or class of law that Council or the Land Committee, by Resolution, declare to be subject to this section.

Ratification process

13.2 Any ratification vote required under the Land Code shall be conducted in substantially the same manner as the Snaw-naw-as Community Ratification Process, which was used to ratify this Land Code.

No verifier

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

Minimum Requirements for Approval

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

PART 4

PROTECTION OF LAND

14. Expropriation

No expropriation

14.1 Subject to the provisions in this Part, there shall be no expropriation of any interest or license interest or license in First Nation land, or in any building or other structure on those lands.

Rights and interest that may be expropriated

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14.2 Any interest or license in First Nation land, or in any building or other structure on those lands, may only be expropriated by Snaw-naw-as peoples in accordance with the Framework Agreement and any land law enacted under section 14.4.

Community purposes

14.3 A community expropriation may only be made for a necessary community purpose or works of the Snaw-naw-as peoples, including but not limited to: a fire hall, sewage or water treatment facility, community center, public works, roads, schools, daycare facility, hospitals, health-care facility, and retirement home.

Expropriation laws

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

- (a) the taking of possession of the interest or 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.

Public report

14.5 Before the Snaw-naw-as peoples decide to expropriate an interest or license, it shall make a public report on the reasons justifying the expropriation.

Rights that may not be expropriated

14.6 An interest of Her Majesty the Queen in right of Canada or the Province of British Columbia is not subject to expropriation by the Snaw-naw-as peoples.

Acquisition by mutual agreement

14.7 The right of the Snaw-naw-as peoples to expropriate can only be exercised after a good faith effort to acquire, by mutual agreement, the interest or license in First Nation land.

Community approval

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14.8 In the case of an expropriation of a member's interest, the expropriation must first receive community approval by ratification vote.

Compensation for rights and interests

14.9 The Snaw-naw-as peoples shall, in accordance with its laws and the Framework Agreement:

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

Compensation calculations

14.10 The total value of the compensation under this Part will be based on the following:

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

Fair market value

14.11 The fair 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 on the reserve by a willing seller to a willing buyer, under no duress.

Neutral evaluation

14.12 A dispute concerning the right of the Snaw-naw-as peoples to expropriate an interest or license in First Nations land shall be reviewed 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 circumstance, by the neutral evaluator.

Arbitration to resolve disputes

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14.13 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 a person who claims an interest or license in expropriated First Nations land to compensation; and

(b) disputes concerning the amount of the compensation to be paid to the person who held an interest or license in expropriated First Nations land.

15. Heritage Sites

Community approval of development

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

Land use plan

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

16. Voluntary Land Exchanges and Protections

Conditions for a land exchange

16.1 The Snaw-naw-as peoples may agree with another party to exchange a parcel of First Nations land for a parcel of land from that other party in accordance with this Land Code and the Framework Agreement.

No effect

16.2 A land exchange is of no effect unless it receives community approval by a ratification vote.

Land to be received

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

(a) it must be equal to or greater than the area of the First Nations land to be exchanged;

(b) it must be at least comparable to the appraised value of the First Nations land; and

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(c) it must become a reserve and First Nations land subject to this Land Code.

Negotiators

16.4 The persons who will have authority to negotiate a land exchange agreement on behalf of the Snaw-naw-as peoples must be designated by Resolution.

Additional land

16.5 The Snaw-naw-as peoples may negotiate to receive other compensation, such as money or one or more other parcels of land, in addition to the parcel referred to above which is intended to become a reserve. Such other parcels of land may be held by the Snaw-naw-as peoples in fee simple or some other manner.

Federal Consent

16.6 Before the Snaw-naw-as peoples conclude a land exchange agreement, it must receive a written statement from Canada clearly stating that Her Majesty in right of Canada:

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

Community notice

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

- (a) a description of the 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 exchanged;
- (d) a report of a certified land appraiser setting out that the conditions in section 16.3 have been met;
- (e) a copy or summary of the exchange agreement; and
- (f) a copy of the consent referred to in section 16.6.

Process of land exchange

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16.8 The land exchange agreement shall provide that:

- (a) the other party to the exchange must transfer to Canada the title to the land which is to be set apart as a reserve;
- (b) the Council must pass a Resolution authorizing Canada to transfer title to the First Nations 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 Nations Lands Register.

PART 5

ACCOUNTABILITY

17. Conflict of Interest

Application of rules

17.1 The rules in this section apply to the following persons:

- (a) each member of Council;
- (b) each member of the Lands Committee;
- (c) each person who is an employee of the Snaw-naw-as peoples who is dealing with any matter that is related to First Nation land; and
- (d) each person who is a member of a board, committee or other body of the Snaw-naw-as people dealing with any matter that is related to First Nation land.

17.2 A person to which this Part applies has a conflict of interest when the person is being asked to deliberate or decide on a matter where there is the opportunity to further his or her private interest or the private interest of a member of his or her Immediate Family.

17.3 A person to which this Part applies has an apparent conflict of interest if there is a reasonable perception, which a reasonably well informed person could properly have, that the person's ability to deliberate or decide on the matter may have been affected by his or her private interest or the private interest of a member of his or her Immediate Family.

17.4 Private interest does not include an interest that a person or a member of his or her Immediate Family has in a matter by virtue of the fact that the person or his or her Immediate Family member is a member of the Snaw-naw-as peoples

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Conflict of Interest Prohibition

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

Procedure on Conflict of Interest

17.6 A person to which this Part applies who has reasonable grounds to believe that he or she has a conflict of interest in a matter before Council or the Lands Committee, as the case may be, shall:

- (a) disclose the general nature of the conflict of interest;
- (b) remove and excuse themselves from the meeting, if he or she is physically present; and
- (b) shall not take part in any consideration or deliberation on that matter, or vote on that matter.

17.7 If a person has complied with section 17.6, the person taking minutes of the meeting shall record:

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

Uncertainty regarding Conflict of Interest

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

- (a) from Council, if the person is a member of Council;
- (b) from the Lands Committee, if the person is a member of the Lands Committee; or
- (c) from the lands staff.

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

- (a) from Council, if the Subject is a member of Council; or

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(b) from the Lands Committee, if the Subject is a member of the Lands Committee.

17.10 A decision of the Council or the Lands Committee, as the case may be, made pursuant to section 17.8. or 17.9 shall be final.

Failure to Establish Quorum due to Conflict

17.11 Where, as a result of a conflict of interest, a quorum of Lands Committee cannot be established, the remaining members of the Lands Committee may refer the matter to Council for decision.

17.12 Where, as a result of a conflict of interest, Council is not able to establish a quorum, or where Council is not able to reach a decision, Council may refer the matter to a community meeting and, if a quorum of eligible voters is present, a majority of the eligible voters present at the meeting may enact the proposed law or Resolution.

17.13 In the event that a decision is unable to be made at the community meeting, the matter will then be referred to a third party mediator for resolution.

18. Financial Management

Application

18.1 This section applies only to financial matters relating to First Nations land.

Establishment of bank accounts

18.2 The Lands Committee 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 First Nations land;
- (b) moneys received by the Snaw-naw-as lands office from the grant or disposition of any interests or licenses in First Nations land;
- (c) all fees, fines, 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 and licenses in First Nations land; and
- (e) any other land revenue received by the Snaw-naw-as peoples.

Signing Officers

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

Bonding

18.4 Every signing officer shall be bondable.

Two signatures

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

Fiscal year

18.6 The fiscal year of the Snaw-naw-as lands office begins on April 1 of each year and ends on March 31 of the following year.

Adoption of budget

18.7 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 Lands Committee deems it necessary in the course of the fiscal year, adopt supplementary budgets for that fiscal year.

Procedure

18.8 After adopting the land management budget or supplementary budget, the Lands Committee shall, without undue delay:

- (a) explain the budget or supplementary budget to the members at an annual community meeting; and
- (b) make a copy of the budget or supplementary budget available at the Snaw-naw-as lands office for inspection by members at reasonable hours.

If no budget

18.9 If the Lands Committee 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 shall apply until a new budget is adopted.

Budget rules

18.10 The Lands Committee may make rules respecting the preparation and implementation of land management budgets.

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Expenditures

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

Financial Policy

- 18.12 The Snaw-naw-as lands office may, in accordance with this Land Code, adopt a financial policy once approved by the Lands Committee to further manage moneys related to First Nations land.

19. Financial Records

Financial records

- 19.1 The Snaw-naw-as lands office shall keep financial records related to land in accordance with generally accepted accounting principles.

Offences

- 19.2 A person is guilty of an offence if the person:
- (a) impedes or obstructs anyone from exercising their right to inspect the financial records of Snaw-naw-as lands office; or
 - (b) has control of the books or account or financial records of Snaw-naw-as lands office and fails to give all reasonable assistance to anyone exercising their right to inspect the financial records.

Preparation of financial statement

- 19.3 Within 90 days after the end of each fiscal year, the Snaw-naw-as lands office on behalf of the Snaw-naw-as shall prepare a financial statement in comparative form, containing at a minimum:
- (a) a balance sheet;
 - (b) a statement of revenues and expenditures and a comparison of these with the amounts stated in the land management budget and any supplementary budget; and
 - (c) any other information necessary for a fair presentation of the financial position of Snaw-naw-as lands office.

Consolidated Accounts, etc.

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19.4 The accounting, auditing and reporting requirements of this Land Code may be done together with, and consolidated with, the other accounts, audits and reports of the Snaw-naw-as peoples.

20. Audit

Appointment of Auditor

20.1 For each fiscal year, a duly accredited auditor shall be appointed to audit the land related financial records of Snaw-naw-as lands office.

Holding Office

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

Vacancy in office

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

Remuneration

20.4 The auditor's remuneration shall be fixed by the Lands Committee.

Duty of auditor

20.5 The auditor shall, within 120 days after the end of the fiscal year of the Snaw-naw-as lands office, prepare and submit to the Council, a report on the financial statement from the Snaw-naw-as lands office, stating whether, in the opinion of the auditor, the financial statement fairly presents the financial position of the Snaw-naw-as, in accordance with generally accepted accounting principles, applied on a basis consistent with that applied in the previous fiscal year.

Access to records

20.6 In order to prepare the report on the financial statement of the Snaw-naw-as lands office, the auditor may at all reasonable times inspect any financial records of the Snaw-naw-as lands office and any person or body who administers money on behalf of the Snaw-naw-as lands office.

Explanation of Auditor's report

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20.7 The Lands Committee shall present the auditor's report to the members at an annual meeting of members.

21. Annual Report

Publish annual report

21.1 The Council, on behalf of the Snaw-naw-as lands office, shall publish an annual report on lands within one month of receipt of the community audit.

Contents

21.2 The annual report shall include:

- (a) an annual review of land management;
- (b) a copy and explanation of the audit as it applies to lands;
- (c) a summary of the audit report; and
- (d) any other matter as determined by the Lands Committee.

22. Access to Information

Access

22.1 Any person may, during normal business hours at the Snaw-naw-as lands office, have reasonable access to:

- (a) the register of laws;
- (b) the auditor's report; and
- (c) the annual report on First Nations land.

Copies for members

22.2 Any member may obtain a copy of the auditor's report or annual report, on payment of a reasonable fee, as set by or under Resolution of the Lands Committee.

Access to records



- 22.3 Any person authorized by the Lands Committee may, at any reasonable time, inspect the financial records of Snaw-naw-as lands office related to First Nations land.

PART 6

LAND ADMINISTRATION

23. Lands Committee

Lands Committee established

- 23.1 The Lands Committee is hereby established to:
- (a) assist with the development of the land administration system;
 - (b) advise the Council and its staff on matters respecting First Nations land;
 - (c) recommend laws, resolutions, policies and practices respecting First Nations land to the Council;
 - (d) hold regular and special meetings of members to discuss land issues and make recommendations to Council on the resolution of land issues;
 - (e) assist in the communication of land issues between members and the Council;
and
 - (f) oversee community consultation and approvals under the Land Code.

Development of land related rules and procedures

- 23.2 Within a reasonable time after this Land Code takes effect, the Lands Committee shall, in consultation with the community, ensure that laws, rules and procedures, as may be appropriate, are developed that address the following matters:
- (a) environmental protection and assessment in relation to First Nations land;
 - (b) any outstanding issues on the resolution of disputes in relation to First Nations land;
 - (c) land use planning and zoning;
 - (d) section 38, respecting spousal separation and whether any change should be made to the policy upon which that section is based; and
 - (e) any other matter referred by Council.

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Implementation of rules and procedures

23.3 The rules and procedures developed under section 23.2 shall be presented by the Lands Committee to the Council for consideration and implementation as policies or laws pursuant to the Land Code.

Formal procedures

23.4 The Land Committee may establish rules for the procedure at its meetings and generally for the conduct of its business matters, not inconsistent with those established by Council.

24. Membership of the Lands Committee

Composition

24.1 The Lands Committee shall be comprised of 10 members, all of who must be eligible voters.

Eligibility to be Nominated as a Lands Committee Member

24.2 The following persons are not eligible to be nominated or appointed as a Lands Committee member:

- (a) any person convicted of an offence that was prosecuted by way of indictment or felony conviction within five years prior to the date of the appointment; 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

24.3 The members of the Lands Committee are to be selected as follows:

- (a) Two eligible voters are to be appointed by each of the Families; and
- (b) For transitional purposes, until such time as Lands Committee members are appointed under sub-section (a), the Land Code Committee shall act as the interim the Lands Committee.

Term of office

24.4 The length of the term of office for members of the Lands Committee is 4 years, with the families to review their appointed representative after 2 years.

Terms to commence

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24.5 The terms of office of the 10 members appointed to the Lands Committee are to commence as soon as possible after the Land Code comes into effect.

Election law

24.6 The Lands Committee may develop, and the Council may enact a law to establish the procedure for the Lands Committee election, including rules for the election of the additional members of the Lands Committee.

Vacancy on Lands Committee

24.7 The office of a member of the Lands Committee becomes vacant if the person, while holding office:

- (a) is or becomes ineligible to hold office under section 24.2;
- (b) transfers his or her of membership to another First Nation;
- (c) is recommended by the Committee to the Family to remove their representative and replace with another Family representative; or
- (d) a recommendation is made by the Family to the Committee to remove the representative of that Family, and replace the office with another Family representative; or
- (e) is absent for 3 consecutive meetings of the Lands Committee, without authorization from the Lands Committee, for a reason other than illness or incapacity.

Vacancy in term

24.8 Where the office of a member of the Lands Committee becomes vacant for more than 90 days, an appointment may be made by family meeting or by “traditional means”, in accordance with this Land Code to fill the vacancy.

Balance of term of office

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

25. Chairperson of the Lands Committee

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Chairperson

25.1 The Chairperson of the Land Committee shall be chosen by the Lands Committee from among its members, by majority vote, at a duly convened meeting of the Lands Committee.

Alternate Chairperson

25.2 In the event that the Chairperson is unable to perform the functions of office, whether temporarily or permanently, the Lands Committee shall appoint a member of the Lands Committee as Chairperson, by majority vote, at a duly convened meeting of the Lands Committee.

Duties of Chairperson

25.3 The duties of the Chairperson are to:

- (a) chair the meetings of the Lands Committee;
- (b) ensure the preparation of financial statements relating to all activities of the Lands Committee, including the revenues and expenditures concerning First Nations land;
- (c) table the financial statements of the Lands Committee with the Council;
- (d) report to the Council on the activities of the Lands Committee; and
- (e) ensure that the audited annual financial statements are published under section 21.

26. Revenue from Lands

Determination of fees and rent

26.1 The Lands Committee shall recommend and develop laws, rules and/or policies to determine:

- (a) the fees and rent for interests and licenses in community land;
- (b) the fees for services provided in relation to any First Nations land; and
- (c) the fees and royalties to be paid for the taking of natural resources from First Nations land.

27. Registration of Interests and Licenses

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Enforcement of interest and licenses

27.1 Any interest or license in First Nations land, created or granted after this Land Code takes effect, is not enforceable unless it is registered in the First Nations Land Register.

Registration of consent or approval

27.2 Any instrument granting an interest or license in First Nations land that requires community approval, shall include a certificate issued by the Land Manager indicating that the applicable consent or approval has been obtained.

27.3 Any instrument registered in the First Nations Land Register that does not include the certificate referred to in clause 27.2 is null and void.

Duty to deposit

27.4 The Council shall ensure that original copies of the following instruments are deposited in the First Nations Land Register:

- (a) any grant of an interest or license in First Nations land;
- (b) any transfer or assignment of an interest in First Nations land;
- (c) every land use plan, subdivision plan or resource use plan; and
- (d) the Land Code and any amendments thereto.

28. Duplicate Lands Register

Duty to maintain duplicate register

28.1 The Snaw-naw-as lands office shall maintain a duplicate Land Register in the same form and with the same content as the First Nations Land Register.

Duty of member to deposit

28.2 Every person who receives an interest or license in First Nations land from a member shall deposit an original copy of the relevant instrument with the Snaw-naw-as lands office.

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INTERESTS AND LICENSES IN LAND

29. Limits on Interests and Licenses

All dispositions in writing

- 29.1 An interest in, or license to use, First Nations land may only be created, granted, disposed of, assigned or transferred by a written document in accordance with this Land Code.

Standards

- 29.2 The Lands Committee may establish mandatory standards, criteria and forms for interests and licenses in First Nations land.

Improper transactions void

- 29.3 A deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which the Snaw-naw-as peoples, a member, or any other person purports to grant, dispose of, transfer or assign any interest or license in First Nations land after the date this Land Code takes effect is null and void if it is in contravention with the Land Code.

Non-members

- 29.4 Any person who is not a Snaw-naw-as member may only hold a lease, license or permit in First Nations land, and shall acquire no rights by transfer, devise or descent.

Grants to non-members

- 29.5 The written consent of the Lands Committee must be obtained for any grant or disposition of a lease, license, or permit in First Nations land to a person who is not a member.

30. Existing Interests

Continuation of existing interests

- 30.1 Any interest or license in First Nations land that existed when this Land Code takes effect will, subject to this Land Code, continue in force in accordance with its terms and conditions.

31. New Interests and Licenses

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Authority to make dispositions

- 31.1 Subject to section 12.1, the Lands Committee may, on behalf of Snaw-naw-as people, grant;
- (a) interests and licenses in community lands, including certificates of possession, leases, permits, easements and rights-of-ways; and
 - (b) permits to take resources from community lands, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances.

Conditional grant

- 31.2 The grant of an interest, license or permit may be made subject to the satisfaction of written conditions by the Land Committee.

Role of the Lands Committee

- 31.3 The Lands Committee shall notify the community on the granting of interests, licenses and permits under this section.

32. Certificates of Possession

Application

- 32.1 This section codifies the rights attaching to certificates of possession, whether issued under the *Indian Act* or under the Land Code.

Nature or interest in Certificate of Possession

- 32.2 Subject to this Land Code and Snaw-naw-as laws, a certificate of possession in respect of a parcel of land is an interest that entitles the member holding it to:
- (a) permanent possession of the land;
 - (b) benefit from the resources arising from the land;
 - (c) grant subsidiary interests and licenses in the land, including leases, permits, easements and rights-of-ways;
 - (d) transfer, devise or otherwise dispose of the land to another member;
 - (e) grant permits to take resources from the land, including cutting timber or removing minerals, stone, sand, gravel, clay soil or other substances;
 - (f) any other rights, consistent with this Land Code, that are attached to certificates of possession under the *Indian Act*, in force when the Land Code

comes into effect, excluding the requirement for Ministerial Approval of transfers of a certificate of possession.

33. Allocation of Land

Allocation of lots

33.1 The Lands Committee may allocate a lot of available First Nations land to a member in accordance with its policies and procedures, the Land Code and related laws.

33.2 No community approval is required for:

- (a) the allocation of lots to members; or
- (b) the issuance of certificates of possession to members.

No allocation of lots to non-members

33.3 A person who is not a member is not entitled to be allocated a lot or to hold a permanent interest in First Nations land.

Issuance of Certificate of Possession

33.4 The Lands Committee shall issue a certificate of possession to a member for a lot allocated to that member.

34. Transfer and Assignment of Interests

Transfer of Certificate of Possession

34.1 A member may transfer or assign an interest in First Nations land to another member without community approval or the consent of the Council.

Consent of the Lands Committee

34.2 Except for the transfers under section 34.1 and transfers that occur by operation of law (such as wills, estates, and the right of a spouse to a matrimonial home on spousal separation),

- (a) there shall be no transfer or assignment of an interest in First Nations land without the written consent of the Lands Committee; and
- (b) the grant of an interest or license is deemed to include section 34.2 (a) as a condition on any subsequent transfers or assignments.

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35. Limits on Mortgages and Seizures

Protections

- 35.1 In accordance with the Framework Agreement, section 29, section 87 and subsections 89(1) and (2) of the *Indian Act* continue to apply to First Nations land.

Mortgage of CP

- 35.2 The interest of a member in First Nations land may be subject to a mortgage or charge, but only to the Snaw-naw-as peoples with the written consent of the Lands Committee.

Mortgages of leasehold interests with consent

- 35.3 A leasehold interest may be subject to charge or mortgage, but only with the written consent of the Lands Committee, or community approval, where required.

Time limit

- 35.4 The term of any charge or mortgage of a leasehold interest shall not exceed the lesser of:
- (a) the term of the lease; or
 - (b) 25 years; or
 - (c) such longer period as may receive community approval.

Default in mortgage

- 35.5 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 charge or mortgage, foreclosure, power of sale or any other form of execution or seizure, unless:
- (a) the charge or mortgage received the written consent of the Lands Committee;
 - (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.

Power of redemption

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35.6 If the Lands Committee exercises its power of redemption with respect to a leasehold interest, the Snaw-naw-as peoples becomes the lessee of the land and takes the position of the charger or mortgagor for all purposes after the date of the redemption.

36. Residency and Access Rights

Right of residence

36.1 The following persons have a right to reside on First Nations lands:

- (a) members, who have been allocated a residential lot by Lands Committee, and their spouses and children;
- (b) members with a registered interest in First Nations land;
- (c) any immediate family member referred to in the Snaw-naw-as housing policy; and
- (d) lessees and permittees, in accordance with the provisions of the instrument granting the lease or permit.

Right of Access

36.2 The following persons have a right of access to Snaw-naw-as reserve lands;

- (a) a lessee and his or her invitees;
- (b) permittees and those granted a right of access under the permit;
- (c) Snaw-naw-as members and their spouses and children;
- (d) a person authorized in writing by the Lands Committee or by a Snaw-naw-as law.

Public access

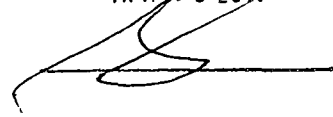
36.3 Any individual may have access to First Nations land for any social or business purposes, if:

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

Trespass

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36.4 Any person, who resides on, enters or remains on First Nations land, other than in accordance with a residence or access right under the Land Code, is guilty of an offence.

Civil remedies

36.5 All civil remedies for trespass are preserved.

37. Transfers on Death

37.1 If a member holding an interest in First Nation Land dies intestate and the entire interest in the First Nation Land does not go by law to a Spouse, the Lands Committee shall call a meeting of Immediate Relatives at the request of any Immediate Relative in order to determine which Immediate Relatives should take what interest in the Land. All efforts shall be made to protect the rights of children. This meeting is to take place within 6 months after the day of the death of the member holding the interest.

Meeting of Immediate Relatives

37.2 If a meeting is called under section 37.1, the following rules apply:

- (a) the Lands Committee shall take reasonable steps to advise the deceased's Immediate Relatives of the meeting; and
- (b) at the meeting, the deceased's Immediate Relatives may, with the help of the Panel if necessary, decide who a month them is to receive the interest in the land.

Meeting of the Members

37.3 If the Immediate Relatives cannot decide who is to receive the interest within 12 months of the date of death, the Lands Committee shall call a community meeting of the members to discuss the issue and make a recommendation to the Immediate Relatives by a majority of eligible voters present at the community meeting on the disposition of the interest. This recommendation may include the acquisition by the Snaw-naw-as peoples of all or part of the interest as if the interest were being expropriated under section 14.2 and payment to the Immediate Relatives of fair market value determined under that section.

Indian Act Provisions on Intestacy

37.4 Section 37(1) – (3) of the Land Code are subject to sections 48 and 50(1) – (3) of the *Indian Act* and are intended to supplement those provisions of the *Indian Act* by providing a procedure for facilitating agreements among Immediate Relatives

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on how their entitlements, if any, under those provisions under the *Indian Act* may be implemented in practice.

38. Spousal Property Law

Development of rules and procedures

38.1 The Lands Committee 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 First Nations 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 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) each spouse should have an equal right to possession of their matrimonial home, unless a marriage contract outlining otherwise has been signed by both spouses;
- (b) each spouse should be entitled to an undivided half interest in their matrimonial home, as a tenant in common;
- (c) the rules and procedures shall not discriminate on the basis of sex;
- (d) only members are entitled to own a permanent interest in First Nations land or a charge against a permanent interest in First Nations land; and
- (e) notwithstanding any other provision, the best interests and rights of the children are the priority.

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Immediate rules

- 38.5 Council may enact an interim law as provided in clause 38.1, provided that any such law will expire 12 months after the coming into force of this Land Code, unless re-enacted.

PART 8

DISPUTE RESOLUTION

39. Dispute Resolution Panel

Panel established

- 39.1 The Dispute Resolution Panel is hereby established with jurisdiction to resolve disputes in relation to First Nations land.

Appointment of Panel

- 39.2 The Panel shall be composed of 5 panelists, all of whom must be eligible voters. Three panelists shall participate in determining the resolution of the dispute, at the discretion of the Panel.

Representation

- 39.3 The Lands Committee shall appoint the panelists, and shall ensure that the Panel represents the various elements of the community, including Elders, youth, professionals and non-resident members.

Term of office

- 39.4 The panelists hold office for a term of 3 years.

Remuneration

- 39.5 The Committee shall determine the remuneration to be paid to the members of a Panel.

40. Dispute Procedure

Disputes

- 40.1 Any matter or dispute related to First Nations land, including disputes that arose prior to this Land Code coming into effect, may be referred to the Panel for resolution.

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42. Powers of Panel

Powers of Panel

- 42.1 The Panel may, after hearing a dispute:
- (a) confirm or reverse the decision, in whole or in part;
 - (b) substitute its own decision for the decision in dispute;
 - (c) direct that an action be taken or ceased; or
 - (d) refer the matter or dispute back for a new decision.

Rules of Panel

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

Professional services

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

Written decisions

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

Reasons

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

Appeal of decision

- 42.6 A decision of the Panel is binding but may be subject review by the Federal Court.
- 42.7 Where a decision of a Panel is appealed the Panel may adjourn, but will not be dissolved, until all appeal proceedings have been concluded.
- 42.8 Unless otherwise ordered by a Panel or a court, the parties to a dispute will bear their own costs.

Alternate Forums

- 42.9 Nothing in this part precludes the Lands Committee from establishing additional processes for resolving disputes, which processes may include, but are not limited to administrative appeals and facilitated mediation.

PART 9

OTHER MATTERS

43. Liability

Liability Coverage

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

Extent of coverage

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

Bonding

- 43.3 Every employee of the Snaw-naw-as peoples, whose responsibilities include land administration or collecting or accounting for land revenue must be bondable.

44. Offences

Application of the Criminal Code

- 44.1 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.
- 44.2 Any person who commits an offence under this Land Code or a First Nation land law is liable to a fine not to exceed \$5,000 and to a term of imprisonment not to exceed six months or to both fine and imprisonment.
- 44.3 A First Nations land law may provide for a penalty which is different than the penalties referred to in clause 44.2.

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45. Amendment

- 45.1 All amendments to this Land Code must receive community approval by ratification vote to be effective.
- 45.2 A verifier is required in a ratification vote on amendment, who shall carry out the same duties and follow the same procedure as set out in the *First Nation Land Management Act* for the approval of this Land Code by the Snaw-naw-as peoples.

46. Commencement

Preconditions

- 46.1 This Land Code shall only take effect if the community approves this Land Code and the Transfer Agreement with Canada, and the Land Code is been certified by the verifier pursuant to the Framework Agreement.

Commencement date

- 46.2 This Land Code shall take effect on the first day of the month following the certification of this Land Code by the verifier.

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