



SLIAMMON FIRST NATION

LAND CODE

Dated for Reference December 5, 2003



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SLIAMMON FIRST NATION LAND CODE

PREAMBLE

WHEREAS the First Nation has occupied and benefited from its territories since time out of memory;

AND WHEREAS the First Nation honours its connection to the land, resources and elements of the natural world that provide for its physical and spiritual needs;

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

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

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

AND WHEREAS the First Nation wishes to manage its land and resources by entering into the Framework Agreement on First Nation Land Management;

NOW THEREFORE, THIS SLIAMMON FIRST NATION LAND CODE IS HEREBY ENACTED AS THE FUNDAMENTAL LAND LAW OF THE SLIAMMON FIRST NATION.

PART 1 PRELIMINARY MATTERS

1. Title

Title

1.1 The title of this enactment is the *Sliammon First Nation Land Code*.



2. Interpretation

Definitions

2.1 The following definitions apply in this Land Code:

“Act” means the *First Nations Land Management Act*, S.C. 1999, c. 24;

“Common-law Marriage” means two persons not married to each other that have lived together as Spouses for a period of not less than one year;

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

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

“Cultural Resource” means an object, site or location of a traditional or cultural practice that is of historical, cultural or archaeological significance to the First Nation;

“Eligible Voter” means, for the purpose of voting in relation to a matter under this Land Code, a Member who has attained the age of 18 years on or before the day of the vote;

“Extended Family”, in relation to a person, means the person’s Immediate Relatives, grandparent, uncle, aunt, cousin or grandchild;

“First Nation” means the Sliammon First Nation as named in the Act;

“First Nation Land” means any portion of a First Nation reserve that is subject to this Land Code;

“First Nations Land Register” means the register maintained by the Department of Indian Affairs and Northern Development under clause 51.1 of the Framework Agreement;

“Framework Agreement” means the *Framework Agreement on First Nation Land Management* entered into between the Minister of Indian Affairs and Northern Development and fourteen First Nations, on February 12, 1996, as amended;

“Immediate Relatives”, in relation to a person, means the person’s parent, sister, brother, child or Spouse;



“Individual Agreement” means the Individual First Nation Agreement made between the First Nation and Her Majesty in right of Canada in accordance with clause 6.1 of the Framework Agreement;

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

“Land Code” means this *Sliammon First Nation Land Code*;

“Law” means a Law enacted under this Land Code but does not include a Resolution;

“Meeting of Members” means a meeting under Part 3;

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

“Panel” means the Dispute Resolution Panel established under section 2.1;

“Ratification Vote” means a vote under section 14;

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

“First Nation Land Register” means the register maintained by the First Nation under section 31.1;

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

“Verifier” means a verifier appointed in accordance with clause 8.1 of the Framework Agreement.

Paramountcy

- 2.2 If there is an inconsistency or conflict between this Land Code and any other enactment of the First Nation, this Land Code shall prevail to the extent of the inconsistency or conflict.
- 2.3 If there is an inconsistency or conflict between this Land Code and the Framework Agreement, the Framework Agreement shall prevail to the extent of the inconsistency or conflict.



Culture and Traditions

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

Non-abrogation

- 2.5 This Land Code is not intended to abrogate or derogate from any aboriginal, treaty or other right or freedom that pertains now or in the future to the First Nation or its Members.
- 2.6 This Land Code is not intended to affect the eligibility of the First Nation 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 the First Nation has not assumed responsibility for such services or programs.

Interpretation

- 2.7 This Land Code shall be interpreted in a fair, large and liberal manner.
- 2.8 The principles set out in the Preamble to this Land Code may be used to interpret this Land Code.
- 2.9 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) 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”;
 - (c) headings and subheadings are for convenience only, do not form a part of this Land Code and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Land Code;
 - (d) 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;



- (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; and
- (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.

Fiduciary Relationships

2.10 This Land Code is not intended to abrogate the fiduciary relationships between Her Majesty the Queen in Right of Canada, the First Nation and its Members.

Land and Interests Affected

- 2.11 A reference to “land” in this Land Code is, unless the context otherwise requires, a reference to First Nation Land and all rights and resources in and of such land, including:
- (a) the water, beds underlying water, riparian rights, minerals and subsurface resources and all other renewable and non-renewable natural resources in and of that land, to the extent that these are under the jurisdiction of Canada or the First Nation; and
 - (b) all the interests and licenses granted to the First Nation by Her Majesty in right of Canada listed in the Individual Agreement.

3. Authority to Govern

Origin of Authority

3.1 By enacting this Land Code the First Nation is giving effect to its aboriginal title to that portion of its territories comprised of First Nation Land.

Flow of Authority

3.2 The authority of the First Nation to govern its land and resources flows from its aboriginal title and inherent right of self-government.

3.3 Through this Land Code, the First Nation will exercise its inherent right of self-government and provide for governance that is accessible, stable, effective, accountable and transparent.



4. Purpose

Purpose

- 4.2 The purpose of this Land Code is to set out the principles and legislative and administrative structures that apply to First Nation Land and by which the First Nation shall exercise authority over that land.

Ratification

- 4.2 The Framework Agreement is ratified by the First Nation when the First Nation approves this Land Code.

5. Description of First Nation Land

First Nation Land

- 5.1 The First Nation Land that is subject to this Land Code is that land described on an interim basis according to the Act by the Department of Indian and Northern Affairs Canada for the purpose of the First Nation's ratification vote on this Land Code as follows:
- (a) Tee shoh sum, Sliammon Indian Reserve No. 1, being those lands within the Province of British Columbia, Canada, as described in the following documents which either set aside lands as reserve for the benefit of the First Nation, or alternatively remove these lands from reserve status:
 - (i) the lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry as number 8042;
 - (ii) the lands described in the Order in Council of the Privy Council No. 2632, dated November 30, 1932 and recorded in the Indian Lands Registry as number 9381-316;
 - (iii) the lands described in Order in Council of the Privy Council No. 1404, dated July 13, 1933 and recorded in the Indian Lands Registry as number 9382-316; and
 - (iv) the lands described in Order in Council of the Privy Council No. 1968-1213, dated June 28, 1968 and recorded in the Indian Lands Registry as number 253606.



- (b) Ah gyk son, Harwood Island Indian Reserve No. 2, being those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Sliammon First Nation:
 - (i) the lands described in Order in Council of the Privy Council No. 1973-3159 dated October 16, 1973, and recorded in the Indian Lands Registry as number X18885.

- (c) Pah Kee ahjim, Paukeanum Indian Reserve No. 3, being those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Sliammon First Nation:
 - (i) the lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry as number 8042.

- (d) Toh Kwon non, Toquana Indian Reserve No. 4, being those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Sliammon First Nation:
 - (i) the lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry as number 8042.

- (e) Tohk natch, Tokenatch Indian Reserve No. 5, being those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Sliammon First Nation:
 - (i) the lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry as number 8042.

- (f) Kah kee ky, Kahkaykay Indian Reserve No. 6, being those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Sliammon First Nation:
 - (i) the lands described in Provincial Order in Council No. 1036, dated July 29, 1938, and recorded in the Indian Lands Registry as number 8042.

Additional Land

- 5.2 The following lands may be made subject to this Land Code if they are, or become, reserve land and the following conditions are met:



- (a) any land owned jointly by the First Nation and one or more other First Nations, when the First Nations agree upon a joint management scheme for that land; and
- (b) any land or interest acquired by the First Nation after this Land Code comes into force, whether by land claim, purchase or other process, when an environmental audit declares it free of environmental hazard and safe for First Nation use.

Land Exchange

- 5.3 For greater certainty, section 5.2 does not apply to land acquired by voluntary land exchange in accordance with section 17.

Inclusion of Land or Interest

- 5.4 If the relevant conditions in sections 5.2 are met, Council shall call a Meeting of Members under section 11.1(b) and, after receiving input from the Members, 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

Council May Make Laws

- 6.1 Council may, in accordance with this Land Code, make Laws in relation to:
- (a) development, conservation, protection, management, use and possession of First Nation Land;
 - (b) interests in, and licenses to use First Nation Land;
 - (c) any matter necessary to give effect to this Land Code; and
 - (d) any matter necessary or ancillary to a Law in relation to First Nation Land.

Examples of Laws

- 6.2 For greater certainty, Council may make Laws in relation to First Nation Land including:
- (a) zoning and land use planning;



- (b) regulation, control, authorization and prohibition of the occupation and development of land;
- (c) creation, regulation and prohibition of interests and licenses;
- (d) environmental assessment and environmental protection;
- (e) archaeological assessment and protection of archaeological and Cultural Resources;
- (f) provision of local services and imposition of user charges;
- (g) enforcement of First Nation Laws;
- (h) provision of services for the resolution, outside the courts, of disputes;
- (i) setting aside and regulation of parks, parklands and recreational lands;
- (j) setting aside and regulation of heritage lands;
- (k) rules and procedures for the receipt, management, expenditure, investment and borrowing of moneys, including the establishment of administrative structures to manage such moneys;
- (l) creation of management and administrative bodies or agencies;
- (m) removal and punishment of persons trespassing upon First Nation Land or frequenting First Nation Land for prohibited purposes;
- (n) public nuisance and private nuisance;
- (o) regulation of sanitary conditions and the provision of sanitary services in private premises and public places;
- (p) construction and maintenance of boundary and internal fences;
- (q) construction, maintenance and management of roads, water courses, water diversions, storm drains, bridges, ditches and other local and public works; and
- (r) regulation of traffic and transportation.



- 6.3 Council shall perform all the duties and functions, and exercise all the powers, of the First Nation that are not specifically assigned to an individual or body established under this Land Code.
- 6.4 Notwithstanding section 6.3 Council may by enacting a Law, delegate administrative authority in relation to a Law enacted under section 6.1 to an individual or body established or authorized under this Land Code.
- 6.5 For greater certainty, the Sliammon Tax and Land Authority is deemed to be a body established or authorized under this Land Code.

7. Law-Making Procedure

7.1 Council shall enact Laws under this Land Code in accordance with this Part.

Development of Laws

- 7.2 Development of a Law may be initiated by:
- (a) a Resolution, setting out the specific subject matter of the proposed Law; or
 - (b) a Petition to Council signed by 40 Eligible Voters, setting out the request for development of a Law and setting out the intended purpose and specific subject matter of the proposed Law.

Notice

- 7.3 Upon initiation of a proposed law, Council shall provide notice to the Members of the subject matter of the proposed law and the general nature of provisions to be included in the proposed law.
- 7.4 Notice under section 7.3 shall be provided by:
- (a) publication of a notice in the First Nation newsletter mailed to Eligible Voters at their last known address; or
 - (b) by written notice, delivered or mailed to Eligible Voters at their last known address; and
 - (c) posting of the notice in a public area of the First Nation administration offices.
- 7.5 Notice under section 7.3 shall:



- (a) invite written comments from Members on the subject matter and content of the proposed law; and
- (b) specify a date at least 20 days from the date of the notice for Members to respond to Council.

Council Shall Consider

7.6 Upon expiry of the time specified under section 7.5(b), Council shall take into consideration any comments received, the needs of the community and other relevant matters and shall prepare or cause to be prepared a draft law.

Consideration in Principle

7.7 Council shall table the draft law at a regular meeting of Council.

7.8 After considering the draft law, Council shall, by Resolution:

- (a) accept the draft law in principle and set a return date for further consideration by Council;
- (b) reject the draft law; or
- (c) direct further work on the draft law and specify a return date for further consideration by Council.

Explanation for Rejection

7.9 Upon the request of any Eligible Voter, Council shall explain its reasons for rejecting a draft law.

Approval of Law by Council

7.10 Law is enacted if it is approved by a quorum of Council.

Urgent Matters

7.11 Council may enact a Law without notice if Council is reasonably of the opinion that the Law is required urgently to protect First Nation Land or Members.

7.12 A Law enacted under section 7.11 shall be deemed to have been repealed and to have no



force and effect as of 28 days after its enactment, but may be re-enacted in accordance with this Part.

8. Publication of Laws

Publication

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

Posting Laws

8.2 Within seven days after a Law has been enacted, Council shall post a copy of the Law in the First Nation administration offices.

Registry of Laws

8.3 Council shall cause to be kept, at the First Nation administration offices, a register of Laws containing the original copy of all Laws and Resolutions, including Laws and Resolutions that have been repealed or are no longer in force.

8.4 Any person may, during regular business hours at the First Nation administration offices, have reasonable access to the register of Laws.

Copies for Any Person

8.5 Any person may obtain a copy of a Law or Resolution upon payment of such reasonable fee as may be set by Council.

8.6 Clause 8.5 does not preclude Council from making copies of a Law or Resolution available to Members without fee.

9. Commencement of Laws

Coming into Force

9.1 A Law comes into force on the date of its enactment or such other date as may be specified by the Law.



**PART 3
MEMBER INPUT AND APPROVALS**

10. Rights of Eligible Voters

Rights of Eligible Voters

10.1 Every Eligible Voter may vote at a Meeting of Members and in a Ratification Vote.

11. Member Input

Prior Meeting of
Members

11.1 Council shall convene a Meeting of Members to receive their input prior to the development of a Law in relation to:

- (a) a community plan or subdivision plan;
- (b) declaring land or an interest referred to in section 5.2 to be subject to this Land Code;
- (c) a heritage site or an environmentally sensitive property;
- (d) environmental assessment;
- (e) transfer or assignment of interests in land;
- (f) spousal property under section 41;
- (g) the rate and criteria for the payment of fees or rent for land; and
- (h) any other matter or class of matters that Council by Resolution declares to be subject to this section.

12. Approval at a Meeting of Members

Approval by Members

12.1 Approval at a Meeting of Members must be obtained for:

- (a) subject to section 16, any land use plan or amendment to a land use plan;



- (b) a conflict of interest under section 20.10;
- (c) a Law enacted under section 41;
- (d) an amendment to this Land Code; and
- (e) any Law or class of Law that Council by Resolution declares to be subject to this section.

12.2 Council may by Resolution provide that any matter that requires approval at a Meeting of Members may instead be decided by:

- (a) mail in ballot in accordance with the same standards of quorum and approval that would apply at a Meeting of Members; or
- (b) Ratification Vote in accordance with section 14.

13. Procedure at a Meeting of Members

Voting

13.1 Decisions at a Meeting of Members shall be made by a majority vote of the Eligible Voters present at the meeting.

13.2 Voting at a Meeting of Members shall be by secret ballot.

13.3 The quorum for a Meeting of Members is twenty-five percent of the Eligible Voters.

Notice of Meeting

13.4 Subject to section 20.11, Council shall give written notice of a 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 at the meeting.

Manner of Notice

13.5 Written notice of a Meeting of Members shall be given to the Members by:



- (a) posting the notice in the First Nation administration offices at least 21 days before the meeting;
- (b) mailing the notice to Eligible Voters at their last known address;
- (c) publishing the notice in a community newsletter or local newspaper at least ten working days before the meeting; and
- (d) such additional methods as Council may consider appropriate in the circumstances.

Who May Attend

13.6 A Member may attend a Meeting of Members.

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

Other Meetings

13.8 Council may schedule more than one Meeting of Members to discuss and decide a matter that requires a Meeting of Members.

14. Ratification Votes

Approval by Ratification Vote

14.1 Approval by a Ratification Vote must be obtained for:

- (a) development on a heritage site designated in a land use plan;
- (b) voluntary exchange of First Nation Land;
- (c) expropriation of a Member's interest;
- (d) amendment to the Individual Agreement that reduces the amount of funding provided by Canada; and
- (e) any Law or class of Law that Council by Resolution declares to be subject to this section.



Individual Agreement

- 14.2 For greater certainty, an amendment to, or renewal of, the Individual Agreement shall not require approval by a Ratification Vote unless the amendment or renewal reduces the amount of funding provided by Canada.

Ratification Process

- 14.3 A Ratification Vote under this Land Code shall be conducted in substantially the same manner as that set out in the *Sliammon First Nation Community Ratification Process* that was used to ratify this Land Code.

No Verifier

- 14.4 A Verifier is not required in a Ratification Vote.

Requirements for Approval

- 14.5 A matter shall be considered approved by a Ratification Vote if a majority of the Eligible Voters participates in the vote and at least a majority of the participating voters cast a vote in favour of the matter.

PART 4 EXPROPRIATION AND LAND EXCHANGE

15. Expropriation by First Nation

Rights and Interests
That May be Expropriated

- 15.1 An interest or license in First Nation Land or in any building or other structure on such land may only be expropriated by the First Nation in accordance with the Framework Agreement and a Law enacted in accordance with section 15.3.

Community Purposes

- 15.2 The First Nation may expropriate only for a necessary community purpose or works of the First Nation, including a fire hall, sewage or water treatment facility, community center, public work, road, school, day-care facility, hospital, health-care facility or retirement home.



Expropriation Laws

- 15.3 Council shall enact a Law setting out the rights and procedures for expropriation, including provisions in relation to:
- (a) taking possession of the interest or license;
 - (b) transfer of the interest or license;
 - (c) notice of expropriation;
 - (d) service of a notice of expropriation;
 - (e) entitlement to compensation;
 - (f) determination of the amount of compensation; and
 - (g) the method of payment of compensation.

Public Report

- 15.4 Before the First Nation may expropriate an interest or license, Council shall:
- (a) prepare a report on the reasons for the expropriation;
 - (b) post a copy of the report in the First Nation administration offices; and
 - (c) mail a copy of the report to each Eligible Voter at their last known address.

Rights that May Not
be Expropriated

- 15.5 An interest of Her Majesty the Queen in right of Canada, or an interest previously expropriated under section 35 of the *Indian Act*, is not subject to expropriation by the First Nation.

Mutual Agreement

- 15.6 The First Nation may expropriate only after a good faith effort to acquire, by mutual agreement, the interest or license in First Nation Land.



Limitation

15.7. The Law enacted under clause 15.3 shall include provisions having the following effect:

- (a) an expropriation shall be made only for the smallest interest necessary and for the shortest time necessary; and
- (b) where less than a full interest is expropriated, a person whose interest is expropriated may continue to use and occupy the land for purposes that are not inconsistent with the expropriation.

Notice and Compensation

15.8 The First Nation shall, in accordance with a Law enacted under section 15.3 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 holder of the interest or license being expropriated.

Compensation Calculation

15.9 The total value of compensation under section 15.8(b) shall be based on:

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

Market Value

15.10 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 First Nation Land by a willing seller to a willing buyer.



Dispute Resolution

- 15.11 Subject to section 15.13, the resolution of disputes concerning the right of the First Nation to expropriate shall be determined by neutral evaluation in the same manner as provided in Part IX of the Framework Agreement.
- 15.12 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.
- 15.13 Resolution of the following disputes shall be determined by arbitration in the same manner as provided in Part IX of the Framework Agreement:
- (a) a dispute concerning the right of the holder of an expropriated interest or license to compensation; and
 - (b) a dispute concerning the amount of compensation.

16. Heritage Sites

Approval of Amendments

- 16.1 No amendment may be made to a land use plan to develop or delete from the land use plan a heritage site designated under that plan unless the amendment receives prior approval by a Ratification Vote.

17. Voluntary Land Exchange

Conditions for a Land Exchange

- 17.1 The First Nation may agree with another party to exchange First Nation Land for land from that other party in accordance with this Land Code and the Framework Agreement.

No Effect

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

Land to be Received

- 17.3 A land exchange may proceed to a Ratification Vote only if the land to be received by the First Nation:
- (a) is of equal or greater area than the First Nation Land to be exchanged;



- (b) is of a value comparable to the appraised value of the First Nation Land to be exchanged; and
- (c) is eligible to become a reserve under the *Indian Act* and First Nation Land subject to this Land Code.

Negotiators

17.4 A person who negotiates a land exchange on behalf of the First Nation shall be designated by Resolution.

Additional Land

17.5 The First Nation may receive additional compensation, including money or other land in addition to the land referred to in section 17.3.

17.6 Such other land may be held by the First Nation in fee simple or other manner.

Federal Consent

17.7 Before the First Nation concludes a land exchange agreement, it must receive a written statement from Canada stating that Her Majesty in right of Canada:

- (a) consents to set aside as a reserve the land to be received in the land exchange under section 17.3, as of the date of the land exchange or such later date as Council may specify by Resolution; and
- (b) consents to the manner and form of the exchange as set out in the land exchange agreement.

Community Notice

17.8 At such time as negotiation of a land exchange agreement is concluded, and at least 21 days before the Ratification Vote provided for in section 17.2, Council shall provide the following information to the Members:

- (a) a description of the First Nation Land to be exchanged;
- (b) a description of the land to be received by the First Nation;
- (c) a description of any other compensation to be received;



- (d) a report of a certified land appraiser stating that the conditions in sections 17.3(a) and (b) have been met;
- (e) a copy of the land exchange agreement; and
- (f) a copy of the statement from Canada referred to in section 17.7.

Process of Land Exchange

17.9 A land exchange agreement shall provide that:

- (a) the other party to the exchange must transfer to Canada the title to the land that is to be set aside as a reserve;
- (b) Council must pass a Resolution authorizing Canada to transfer title to the First Nation Land being exchanged, in accordance with the land 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 and the First Nation Lands Register.

PART 5 ACCOUNTABILITY

18. Application

18.1 This Part applies only to conflicts of interest and financial matters in relation to the management and administration of First Nation Land under this Land Code.

19. Conflict of Interest

General Duties and Definitions

19.1 No member of Council shall be involved in any transaction or matter where they are in a conflict of interest or appear to be in a conflict of interest.

19.2 A conflict of interest exists where a member of Council or a member of their Immediate Family has a personal or business interest in a transaction or matter under consideration by Council.

19.3 No conflict of interest or appearance of a conflict of interest exists where:



- (a) the only benefit derived by a member of the Immediate Family of a member of Council is as an employee of a person or business entering into a transaction with, or being a party to, a matter determined by Council;
 - (b) the member of Council or a member of their Immediate Family is a beneficiary or shareholder of a corporation, society or other entity owned or controlled by the First Nation that is entering into a transaction with Council or is a party to a matter determined by Council;
 - (c) the member of Council or a member of their Immediate Family holds an interest in the same manner and under the same conditions as other Members;
 - (d) a member of Council guarantees repayment of or otherwise assumes liability to repay a loan made to Council or the First Nation;
 - (e) Council enacts a Law providing members of Council with reasonable remuneration, vacation, sick leave or other benefits for services as elected officials of the First Nation; or
 - (f) Council agrees to indemnify or reimburse the member of Council for expenses or liabilities reasonably incurred in their duties or arranges for insurance against risks undertaken in the carrying out of their duties.
- 19.4 A transaction which may give rise to a conflict of interest or the appearance of a conflict of interest may be approved by Resolution in accordance with this Part.
- 20. Procedure for a Conflict of Interest or Appearance of a Conflict of Interest**
- 20.1 A member of Council who has, or believes that they have, a conflict of interest shall disclose the nature and extent of the conflict of interest at the first Council meeting after the conflict becomes known to the member of Council, whether or not the transaction or matter giving rise to the conflict has been concluded.
- 20.2 Where the interest of a member of Council has not been disclosed as required by section 20.1 by reason of the member of Council's absence from the meeting at which the matter was first raised, the member of Council shall disclose the interest and comply with this Part at the next meeting of Council.
- 20.3 A member of Council may request a decision of Council on whether there is a conflict of interest.



- 20.4 After declaring the conflict of interest, the member of Council shall:
- (a) leave the meeting during consideration of the matter in question;
 - (b) not be counted in the quorum; and
 - (c) not participate in the discussion or vote on the matter in question.
- 20.5 A member of Council who is in a conflict of interest shall not attempt in any way or at any time to influence the discussion or vote on the matter in question.
- 20.6 Every declaration of a conflict of interest and the details thereof shall be recorded in the minutes of the Council meeting.
- 20.7 Notwithstanding section 19.1, Council may approve a transaction or matter by Resolution where:
- (a) the member of Council has complied with sections 20.1 through 20.5; and
 - (b) Council determines the transaction or matter is fair and reasonable.
- 20.8 Where a member of Council is shown to have withheld material information or to have provided false or misleading information for consideration in a Resolution approving a transaction or matter under section 20.7, the Resolution shall be without force and effect.
- 20.9 A Resolution authorizing a transaction or matter may be made conditional upon the member of Council taking such steps as Council may prescribe to protect the interests of Council or the First Nation or to maintain trust in the conduct of Council's activities.
- 20.10 Where as a result of a conflict of interest a quorum of Council cannot be met, the matter shall be decided at a Meeting of Members.
- 20.11 Notice of a Meeting of Members under section 20.10 shall be provided in accordance with section 13.5 and shall further include:
- (a) notification that a report on the matter may be obtained at the First Nation administration offices; and
 - (b) a statement that a determination of the matter shall be made by a vote of the Eligible Voters in accordance with section 12.1.
- 20.12 At the Meeting of Members Council shall present the report on the matter and invite



questions and comments by the Members.

- 20.13 The Eligible Voters present at the Meeting of Members shall vote on whether to approve or reject the transaction or matter, with or without conditions, or make such other decision as may be appropriate in the circumstances.
- 20.14 The decision of the Eligible Voters present at the Meeting of Members shall be recorded in the minutes and, where required, shall have the same effect as a Resolution under section 20.7.

21. Competition with First Nation Businesses

- 21.1 No Member of Council shall, during their term of office, engage as a partner, officer, director, shareholder, advisor, employee, or in any other capacity, in any business that is in competition with a business carried on by the First Nation, without first complying with the provisions of section 20.7.

22. Financial Management

Financial Management and Policy

- 22.1 Council shall continue or implement a system of financial planning and financial administration for the management of First Nation moneys through which Council, First Nation employees and other persons who manage moneys in relation to First Nation Land are accountable to the Members within the meaning of clause 5.2(d) of the Framework Agreement.
- 22.2 Council may, in accordance with this Land Code, adopt a financial policy to further manage moneys in relation to First Nation Land.

Establishment of
Bank Accounts

- 22.3 Council shall maintain one or more financial accounts in a financial institution and shall deposit in those accounts:
- (a) transfer payments received from Canada for the management and administration of First Nation Land;
 - (b) moneys received by the First Nation from the grant or disposition of interests or licenses in First Nation Land;



- (c) all fees, fines, charges and levies collected under a Law or Resolution;
- (d) all capital and revenue moneys received from Canada from the grant or disposition of interests and licenses in First Nation Land; and
- (e) any other land revenue received by the First Nation.

Signing Officers

22.4 Council shall authorize the signing officers of the First Nation to sign cheques and other bills of exchange or transfer drawn on a financial account maintained under section 22.3.

Fiscal Year

22.5 The fiscal year of the First Nation shall begin on April 1 of each year and end on March 31 of the following year.

Adoption of Budget

22.6 Council shall, by Resolution prior to the beginning of each fiscal year, adopt a land management budget for that fiscal year and may, if Council deems it necessary in the course of the fiscal year, adopt one or more supplementary budgets for that fiscal year.

22.7 Prior to adopting a budget referred to in section 22.6, Council shall consult with the Lands Authority.

Procedure

22.8 After adopting a land management budget or supplementary budget, Council shall, as soon as practicable:

- (a) present the budget or supplementary budget to the Members at a community meeting or Meeting of Members; and
- (b) make a copy of the budget or supplementary budget available at the First Nation administration offices for inspection by Members.

If no Budget

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



Expenditures

22.10 Council may not expend moneys in relation to First Nation Land or commit itself, by contract or otherwise, to expend moneys in relation to First Nation Land unless the expenditure is authorized by a Law or an adopted budget.

Other Laws and Policies

22.11 Council shall establish a process for determining:

- (a) fees and rents for interests and licenses in First Nation Land; and
- (b) fees for services provided in relation to First Nation Land and compliance with this Land Code.

23. Financial Records

Financial Records

23.1 The First Nation shall keep financial records in accordance with generally accepted accounting principles.

Offences

23.2 A person who has control of the financial records of the First Nation and who impedes or obstructs anyone from exercising a right to inspect those records is guilty of an offence.

Preparation of Financial Statement

23.3 Within 90 days after the end of each fiscal year, Council shall 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 land management budget and any supplementary budget; and
- (c) any other information necessary for a fair presentation of the financial position of First Nation in relation to First Nation Land.



Consolidated Accounts

23.4 The accounting, auditing and reporting requirements of this Land Code may be consolidated with other accounts, audits and reports of the First Nation.

24. Audit

Appointment of Auditor

24.1 For each fiscal year, Council shall appoint a duly accredited auditor to audit the financial records of the First Nation in relation to First Nation Land.

Vacancy in Office

24.2 If a vacancy occurs during the term of an auditor, Council shall forthwith appoint a new auditor for the remainder of the former auditor's term.

Remuneration

24.3 An appointment under section 24.1 shall contain a statement approving the remuneration to be paid to the auditor.

Duty of Auditor

24.4 The auditor shall, within 120 days after the end of the First Nation's fiscal year, prepare and submit to Council an audit report on the First Nation's financial statement stating whether, in the opinion of the auditor, the financial statement presents fairly and accurately the financial position of the 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

24.5 The auditor may at any reasonable time inspect any financial records of the First Nation and the financial records of any person or body authorized to administer money in relation to First Nation Land.

Presentation of Audit Report

24.6 Council shall present the audit report at a Meeting of Members.

**25. Annual Report**

Publish Annual Report

25.1 Council shall, within 30 days of receiving an audit report under section 24.4, prepare and table with the Lands Authority, an annual report on First Nation Land management.

25.2 The annual report prepared under clause 25.1 shall include:

- (a) an annual review of land management activities;
- (b) a copy and explanation of the audit report as it applies to First Nation Land; and
- (c) such other matters as may be directed by Council or reasonably requested by the Lands Authority.

26. Access to Financial Information

Access Law

26.1 Council shall, in consultation with the Lands Authority, enact a Law setting out the rights and procedures by which Members and other persons may exercise access to First Nation financial information.

26.2 The Law enacted under section 26.1 shall:

- (a) take protection of privacy into account; and
- (b) provide that a Member may, during normal business hours at the First Nation administration offices, upon payment of a reasonable fee set by Resolution, obtain a copy of the audit report, annual report on First Nation Land management, budget or supplementary budget.

**PART 6
LAND ADMINISTRATION**

27. Lands Authority

Lands Authority
Established

27.1 A Lands Authority is hereby established to:



- (a) assist with the development of the First Nation Land administration system;
- (b) advise Council and First Nation staff on matters in relation to First Nation Land;
- (c) recommend to Council Laws, Resolutions, policies and procedures in relation to First Nation Land;
- (d) hold regular and special meetings of Members to discuss First Nation Land issues and make recommendations to Council on the resolution of these land issues;
- (e) assist in the exchange of information in relation to First Nation Land issues between Members and Council;
- (f) monitor community approvals under this Land Code; and
- (g) perform such other duties and functions as Council may direct.

Internal Procedures

- 27.2 The Lands Authority may establish rules and procedures for the conduct of its meetings and general affairs, provided that any such rules and procedures are not inconsistent with any rules and procedures established by Council.
- 27.3 Subject to any requirements of Council in relation to financial obligations, the Lands Authority may:
- (a) establish policies for the remuneration and recovery of expenses incurred by Lands Authority members; and
 - (b) establish programs for the orientation and education of Lands Authority members.

28. Lands Authority Membership

Composition

- 28.1 The Lands Authority shall be composed of an uneven number of no less than five and no more than seven Eligible Voters.

Eligibility

- 28.2 Any Eligible Voter, whether or not resident on First Nation Land, is eligible for election



to the Lands Authority, except for the following:

- (a) an Eligible Voter convicted of an offence that was prosecuted by way of indictment;
- (b) an undischarged bankrupt; and
- (c) an Eligible Voter convicted of a corrupt practice in connection with an election, including accepting a bribe, dishonesty or wrongful conduct.

Selection of Lands
Authority Members

28.3 The members of the Lands Authority shall be selected as follows:

- (a) one member of Council shall be appointed by Council; and
- (b) the remaining members shall be elected by Eligible Voters.

Term of Office

28.4 The term of office of a member of the Lands Authority elected under this Land Code shall not exceed four years, but nothing precludes such member from being elected for further terms.

28.5 The appointment under section 28.3(a) shall be made as soon as practicable after an election of Council.

Staggered Terms

28.6 In the first election held under this Land Code:

- (a) The one half of the number of elected members of the Lands Authority with the highest and sequentially next highest number of votes shall hold office for a term commencing at midnight on the election date and terminating at midnight four years following the election date or upon being replaced in a subsequent election, whichever occurs first; and
- (b) The remaining one half of the number of elected members of the Lands Authority shall hold office for a term commencing at midnight on the election date and terminating at midnight two years following the election date or upon being replaced in office in a subsequent election, whichever occurs first.



28.7 Thereafter the elected members of the Lands Authority shall hold office for a term commencing at midnight on the date of their election and terminating at midnight four years following that date, or upon being replaced in office in a subsequent election, whichever occurs first.

Election Law

28.8 Council shall enact a Law to establish the procedure for the Lands Authority election, including such additional transitional rules as may be necessary for the members of the first Lands Authority.

28.9 An election for members of the Lands Authority shall be held no more than 14 days after an election of Council.

Vacancy on Lands Authority

28.10 The office of a member of the Lands Authority shall become vacant if the member, while holding office:

- (a) resigns;
- (b) is or becomes ineligible to hold office under section 28.2;
- (c) ceases to be a Member;
- (d) is absent from three consecutive meetings of the Lands Authority for a reason other than illness or incapacity without being authorized to be absent by the Lands Authority;
- (e) dies or becomes mentally incompetent; or
- (f) the member of the Lands Authority appointed under section 28.3(a) ceases to be a member of Council.

Vacancy in term

28.11 Where the office of a member of the Lands Authority becomes vacant more than 90 days before the date when another election would ordinarily be held or appointment would be made, a special election may be held or appointment made in accordance with this Land Code and a Law enacted under section 28.8 to fill the vacancy.



Balance of term of office

28.12 The term of a member of the Lands Authority elected or appointed to fill a vacancy under section 28.11 is the balance of the term in relation to which the vacancy occurred.

29. Chair of the Lands Authority

Chair

29.1 The member of Council who is appointed under section 28.3(a) shall be the Chair of the Lands Authority.

Alternate Chair

29.2 If the Chair is unable to perform the functions of office, the Lands Authority shall appoint another member of the Lands Authority to act as the Chair.

29.3 An appointment under section 29.2 is subject to confirmation by Council.

Duties of the Chair

29.4 The duties of the Chair are to:

- (a) chair meetings of the Lands Authority;
- (b) ensure the preparation of financial statements in relation to all activities of the Lands Authority, including any applicable revenues and expenditures concerning First Nation Land;
- (c) table any Lands Authority financial statements with Council;
- (d) report to the First Nation on the activities of the Lands Authority;
- (e) ensure the audited annual financial statements are presented in accordance with section 24.6; and
- (f) perform such other duties as Council or the Lands Authority may reasonably prescribe.



30. Employees and Contractors

Determination of Standards and Qualifications

- 30.1 The Lands Authority may, subject to the approval of Council, establish a process for determining standards and qualifications for employees and contractors hired for purposes of implementing and administering this Land Code.

31. Registration of Interests and Licenses

First Nation Land Register

- 31.1 Council shall maintain a First Nation Land Register in the same form and with the same content as the First Nation Lands Register.

Enforcement of Interests and Licenses

- 31.2 An interest or license in First Nation Land created or granted after this Land Code comes into force is not enforceable unless it is registered in the First Nation Land Register.

Duty to Deposit

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

- (a) a grant of an interest or license in First Nation Land;
- (b) a transfer or assignment of an interest in First Nation Land;
- (c) a land use plan, subdivision plan or resource use plan; and
- (d) this Land Code and any amendment to this Land Code.

- 31.4 Every person who receives an interest or license in First Nation Land from a Member shall deposit an original copy of the relevant instrument in the First Nation Land Register.

Registration of Consent or Approval

- 31.5 No instrument that requires the consent of Council or community approval may be registered unless a certified copy of the document that records the consent or approval is



attached to the instrument.

- 31.6 Notwithstanding section 31.1, nothing in this Land Code precludes Council from enacting a Law providing for maintenance of the First Nation Land Register in such other land registry system or facility as may meet the requirements of the First Nation Land Register.

32. First Nation Lands Register

Duplicate Register

- 32.1 Council shall ensure that a duplicate copy of any instrument deposited in the First Nation Land Register is deposited in the First Nation Lands Register.

PART 7 INTERESTS AND LICENSES IN LAND

33. Interests and Licenses

Regime to be Established

- 33.1 Within a reasonable time after this Land Code comes into force, and prior to enacting any further Laws in relation to interests in, and licenses to use, First Nation Land, Council and the Lands Authority shall establish a community process to develop and recommend to Council a regime for land management under this Land Code.
- 33.2 Without limiting the generality of section 33.1, the process established under that section shall consider:
- (a) land use planning and zoning;
 - (b) specific interests and licenses in relation to First Nation Land that may be continued or created under this Land Code, which may include, without being limited to, leases, permits, easements and rights of way;
 - (c) allocation of First Nation Land for residential housing;
 - (d) specific licenses and permits for harvest and extraction of natural resources from First Nation Land, which may include, without being limited to, cutting timber and extracting minerals, stone, sand, gravel, clay, soil and other substances;
 - (e) traditional forms of tenure, land use and natural resource use;



- (f) processes and criteria that shall be applied to the grant, disposition, renewal and enforcement of interests and licenses, which may include Member participation in decision-making;
- (g) standards and forms for the grant and disposition of interests and licenses;
- (h) environmental assessment and environmental protection;
- (i) charge or mortgage of interests, including leasehold interests;
- (j) processes and criteria for appeal from decisions to grant or refuse to grant interests in First Nation Land;
- (k) resolution of disputes; and
- (l) the policy in relation to spousal property upon which section 41 is based.

Implementation

33.3 Subject to section 11.1, Council may, after full and fair consideration of any recommendations made by the process established under section 33.1, implement such recommendations through the enactment of Laws and establishment of policies, rules and procedures.

All Dispositions in Writing

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

Improper Transactions Void

33.5 A deed, lease, contract, instrument, document or agreement of any kind by which the First Nation, a Member or any other person purports to create, grant, dispose of, transfer or assign an interest or license in First Nation Land after the date this Land Code comes into force is void if it contravenes this Land Code.

Non-Members

33.6 A person who is not a Member may hold a lease, license or permit in First Nation Land.



Grants to non-Members

33.7 The written consent of Council must be obtained for any grant or disposition of a lease, license or permit in First Nation Land to a person who is not a Member.

34. Existing Interests

Continuation of Existing Interests

34.1 An interest or license in First Nation Land, whether held by a Member or a person other than a Member, that is in effect when this Land Code comes into force shall, subject to this Land Code, continue in force in accordance with the terms and conditions of that interest or license.

34.2 Council may, subject to an applicable ruling under Part 8 or by a court of competent jurisdiction, cancel or correct any interest or license issued or allotted in error, by mistake or by fraud.

35. New Interests and Licenses

Authority to Make Dispositions

35.1 Subject to this Land Code, Council may grant:

- (a) interests in Community Land; and
- (b) licenses and permits to take resources from Community Land.

Conditional Grant

35.2 The grant of an interest, license or permit may be made subject to conditions.

Role of the Lands Authority

35.3 The Lands Authority may advise Council on the granting of interests, licenses and permits and may be authorized to act as a delegate of Council under this section.



36. Permanent Interests

Nature of Interest

- 36.1 Subject to sections 12.1 and 33.1, Council may enact Laws providing for an interest in First Nation Land that entitles a Member holding that land to:
- (a) permanent possession of the land;
 - (b) benefit from the resources in and of the land;
 - (c) grant subsidiary interests, licenses and permits in the land;
 - (d) transfer, devise or otherwise dispose of the land to another Member; and
 - (e) any other rights, consistent with this Land Code, that are attached to Certificates of Possession under the *Indian Act*.
- 36.2 For greater certainty, no interest under section 36.1 may be granted to a person who is not a Member.

37. Transfer and Assignment of Interests

Transfer of Interests

- 37.1 A Member may transfer or assign an interest in First Nation Land to another Member without membership approval under Part 3 or consent of Council.

Consent of Council

- 37.2 Except for transfers under section 37.1 and transfers that occur by operation of Law, including transfers of estates by testamentary disposition or in accordance with a Law enacted pursuant to section 41:
- (a) there shall be no transfer or assignment of an interest in First Nation Land without the written consent of Council; and
 - (b) the grant of an interest or license is deemed to include section 37.2(a) as a condition of any subsequent transfer or assignment.



38. Limits on Mortgages and Seizures

Protections

38.1 In accordance with the Framework Agreement, sections 29, 87, 89(1) and 89(2) of the *Indian Act* continue to apply to First Nation Land.

Mortgage of Member's Interest

38.2 The interest of a Member in First Nation Land may be subject to a mortgage or charge only to the First Nation.

Mortgages of Leasehold Interests with Consent

38.3 A leasehold interest may be subject to charge or mortgage only with the written consent of Council.

Default in Mortgage

38.4 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 received the written consent of Council;
- (b) the charge or mortgage received Member approval where required;
- (c) the charge or mortgage was registered in the First Nation Land Register; and
- (d) a reasonable opportunity to redeem the charge or mortgage was given to Council.

Power of Redemption

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

39. Residency and Access Rights

Right of Residence

39.1 The following persons may reside on First Nation Land:



- (a) a Member;
- (b) a Member who has been allocated a residential lot by Council;
- (c) a Spouse and child of a Member referred to in subsection (b);
- (d) a Member with a registered interest in First Nation Land;
- (e) an invitee of a Member referred to in subsection (b) or (c); and
- (f) a lessee or permittee, in accordance with the provisions of the instrument granting the lease or permit.

39.2 A right of residence under section 39.1 does not imply any financial obligation on the part of the First Nation.

Right of Access

39.3 The following persons have a right of access to First Nation Land:

- (a) a lessee of First Nation Land;
- (b) an invitee of a lessee of First Nation Land;
- (c) a permittee and any person who is granted a right of access under the permit;
- (d) a Member;
- (e) a Member's Spouse and children;
- (f) a person who is authorized by a government body or any other public body, established by or under an enactment of the First Nation, Canada or British Columbia to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey;
- (g) a person authorized in writing by Council or the Lands Authority; or
- (h) a person authorized by a Law.



Public Access

- 39.4 A person may have access to First Nation Land for social or business purposes if that person:
- (a) does not trespass on occupied land;
 - (b) does not interfere with an interest or license in land;
 - (c) complies with all applicable Laws; and
 - (d) no Resolution has been enacted prohibiting that person from having access to First Nation Land.

Trespass

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

Civil Remedies

- 39.6 Subject to any Law enacted under this Land Code, all civil remedies for trespass are preserved.

40. Transfers on Death or Mental Incompetence

Right of Spouse or Dependant

- 40.1 In the event that:
- (a) a Member holding an interest in First Nation Land dies intestate and is survived by a Spouse or dependant who does not hold a registered interest in that land; or
 - (b) a Member holding an interest in First Nation Land is declared incompetent due to mental incapacity,

the Member's Spouse or dependant may, where their usual place of residence was with the Member at the time of the Member's death or declaration of incompetence, continue to reside on and use the land until the Member's interest is disposed of under this section.

- 40.2 A Spouse or dependant referred to in section 40.1, whether or not their usual place of



residence was with the Member at the time of the Member's death or declaration of incompetence, may make application for transfer of the Member's interest, and Council shall, subject to this Land Code, decide such application on its merits.

Location of Immediate
Relatives

40.3 In the event that:

- (a) no other provision has been made by a Member referred to in clause 40.1 for the disposition of the interest in the First Nation Land;
- (b) the Member's Spouse of dependant does not within a reasonable time make application under clause 40.2; or
- (c) an Immediate Relative of the Member disputes the continued residence on or use of the land by the Member's Spouse or dependant,

Council shall take reasonable steps to advise any other Immediate Relatives of the Member that the interest held by the Member is available for disposition or is in dispute, and the Member's Immediate Relatives may, with the assistance of the Panel if requested, recommend who is to receive the interest in the land.

Meeting of Members

40.4 If a Member referred to in section 40.1 has no other Immediate Relatives, or if the Immediate Relatives do not within a reasonable period of time after the date of the Member's death or declaration of incompetence recommend who is to receive the interest, Council shall decide who is to receive the interest and may call a Meeting of Members to provide advice on the disposition of the interest.

40.5 Subject to this Land Code and any applicable Law, Council shall:

- (a) give full and fair consideration to any recommendation made under section 40.3 or 40.4; and
- (b) make best efforts to implement that recommendation.



41. Spousal Property Law

Development of Rules and Procedures

41.1 Within 12 months after the date this Land Code comes into force 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 First Nation Land; and
- (b) the division of interests in that land.

Enactment of Rules and Procedures

41.2 The rules and procedures contained in the spousal property Law shall be developed by the Lands Authority in consultation with the Members.

General Principles

41.3 The rules and procedures developed under section 41.2 shall take into account the following general principles:

- (a) the children of the Spouses, if any, should have a right to reside in the matrimonial home until the age of majority or until other arrangements have been made in the best interests of the children;
- (b) each Spouse should have an equal right to possession of the matrimonial home;
- (c) each Spouse should be entitled to an undivided half interest in the 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 a permanent interest in First Nation Land or a charge against a permanent interest in First Nation Land.

Interim Law

41.4 Council may enact an interim spousal property Law at any time within the 12 month period prescribed in section 41.1.



41.5 A Law enacted under section 41.4 shall be deemed to be repealed 12 months after the coming into force of this Land Code, but may be re-enacted in accordance with section 41.1.

PART 8 DISPUTE RESOLUTION

42. Dispute Resolution Panel

Panel Established

42.1 A Dispute Resolution Panel is hereby established to resolve disputes in relation to First Nation Land.

Appointment of Panel

42.2 A Panel shall be composed of three Eligible Voters.

Representation

42.3 The Lands Authority shall appoint the Panel, and shall ensure that the Panel is reasonably representative of the various elements of the community.

Term of Office

42.4 A member of the Panel shall hold office for a term of three years.

No Remuneration

42.5 Unless Council by Resolution provides otherwise, members of the Panel shall receive no remuneration.

43. Dispute Procedure

Disputes

43.1 Any matter or dispute in relation to First Nation Land may be referred to the Panel for resolution.



Prior Disputes

43.2 For greater certainty, disputes that arose before this Land Code comes into force may be referred to the Panel.

Optional Process

43.3 Referral of a dispute to the Panel is optional and all other civil remedies continue to be available to a party to the dispute.

Disputes not
Resolved by Council

43.4 If a Member, or a non-Member with an interest in First Nation Land, has a dispute with Council or the Lands Authority, that person shall attempt to resolve the dispute with Council or the Lands Authority, before referring the dispute to the Panel.

Application Procedures

43.5 Referral to the Panel shall be made in accordance with procedures established by the Panel.

Limitation Period

43.6 The limitation period for referring a matter or dispute to the Panel is:

- (a) 30 days after the date the decision, act or omission that is the subject of the dispute occurred;
- (b) in the case of a dispute under section 40.3(c), 18 months after the date of the decision; or
- (c) in the case of a dispute with the Lands Authority or Council, 30 days after the Lands Authority or Council rejects the attempt at resolution under section 43.4.

Disputes with the Lands Authority

43.7 Notwithstanding section 42.3, in the event of a dispute with the Lands Authority, and unless otherwise agreed by the Parties to the dispute, a Panel shall be appointed as follows:

- (a) one member of the Panel by the Lands Authority;



- (b) one member of the Panel by Council; and
- (c) one member of the Panel by the person referring the dispute to the Panel.

44. Impartiality

Duty to Act Impartially

44.1 The members of the Panel shall act impartially and without bias or favour to any party in a dispute.

Offence

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

Rejection of Application

44.3 In addition to any other penalty provided for an offence under section 44.2, the Panel may refuse to hear a dispute if the Panel reasonably concludes that the applicant acted, or attempted to act, in a way intended to improperly influence a decision of the Panel.

45. Powers of Panel

Powers of Panel

- 45.1 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 for reconsideration.

Rules of Panel

45.2 The Panel may, consistent with this Land Code, establish rules for procedures at its hearings and for the general conduct of its proceedings.



Professional Services

45.3 The Panel may retain 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.

Decisions of Panel

45.4 The Panel shall give reasons for a decision.

45.5 Decisions of the Panel shall be in writing.

45.6 Decisions of the Panel shall be signed by the chair of the Panel or by an officer designated by the Panel.

45.7 Subject to section 45.8, a decision of the Panel is binding.

Appeal of Decision

45.8 Subject to any exception established by a Law, a decision of the Panel may be appealed to a court of competent jurisdiction.

Costs

45.9 Unless otherwise ordered by a Panel or a court, the parties to a dispute shall bear their own costs.

Alternate Forums

45.10 Nothing in this part precludes Council from establishing additional processes for resolving disputes, which processes may include administrative appeals, facilitated discussions, mediation or arbitration.

**PART 9
OTHER MATTERS**

46. Liability

Liability Coverage

46.1 Council shall arrange for, maintain and pay insurance coverage for:



- (a) liability of the First Nation in relation to First Nation Land; and
- (b) personal liability of the First Nation's officers and employees for acts done or omitted to be done in good faith while engaged in carrying out duties in relation to First Nation Land.

Extent of Coverage

46.2 Council shall determine the extent of insurance coverage under section 46.1.

47. Offences

Application of
Criminal Code

47.1 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.

Justices of the Peace

47.2 Council may enact Laws in relation to appointment of justices of the peace for the enforcement of this Land Code and Laws.

Provincial Courts

47.3 If no justice of the peace is appointed, this Land Code and Laws shall be enforced in the Provincial Court of British Columbia or British Columbia Supreme Court as the case may require.

48. Amendments to Land Code

Approval at Meeting of Members

48.1 Amendments to this Land Code must receive approval at a Meeting of Members.

49. Commencement

Preconditions

49.1 This Land Code shall be ratified if:

- (a) the Members approve this Land Code and the Individual Agreement by Ratification Vote; and



- (b) this Land Code has been certified by the Verifier in accordance with the Framework Agreement.

Commencement Date

49.2 Subject to section 49.1 this Land Code shall come into force on the later of:

- (a) the first day of the month following certification of this Land Code by the Verifier; or
- (b) the date the Individual Agreement is executed on behalf of Canada.