



OPASKWAYAK CREE NATION

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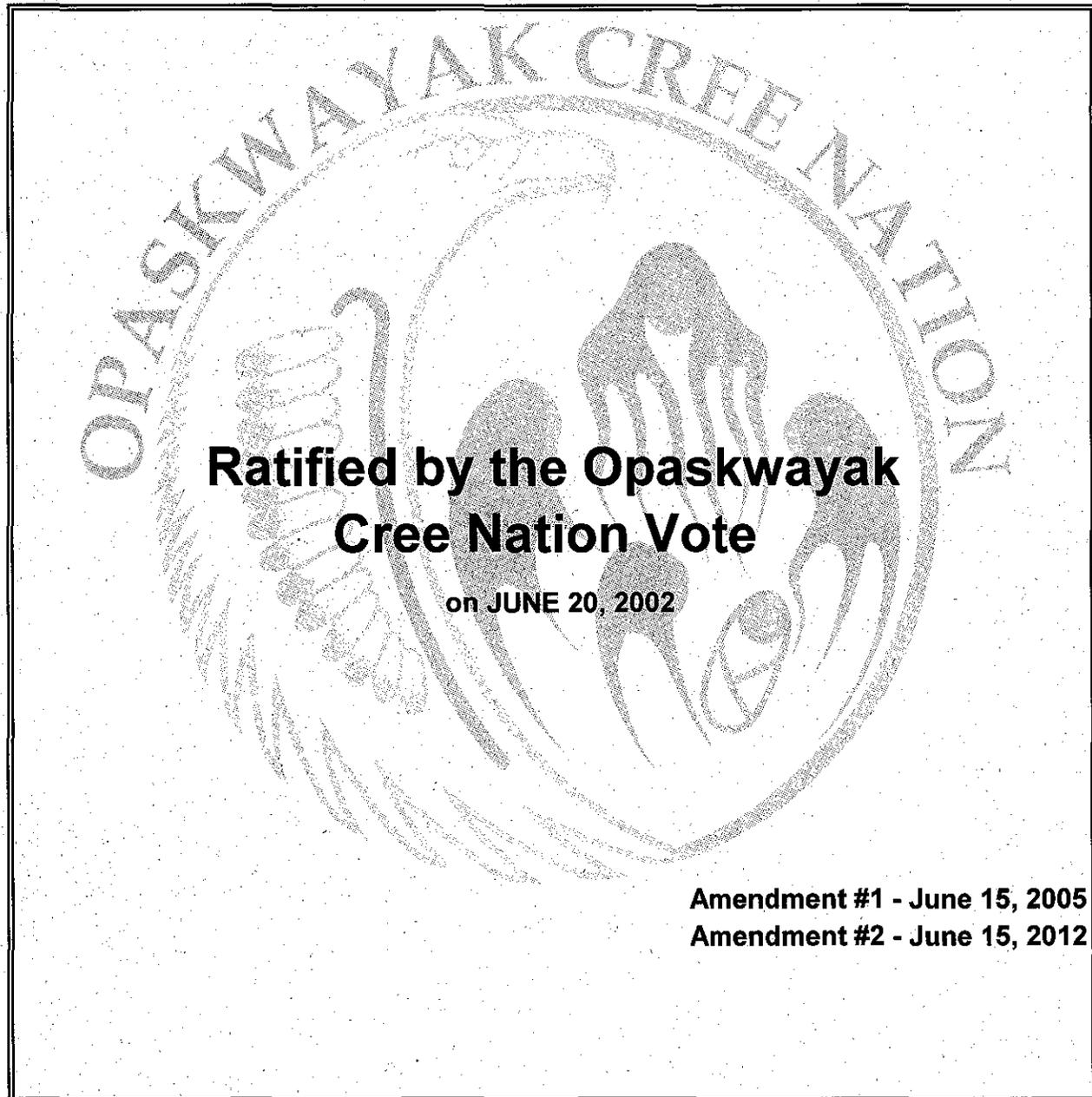
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Opaskwayak Cree Nation Land Code



**Ratified by the Opaskwayak
Cree Nation Vote**

on JUNE 20, 2002

Amendment #1 - June 15, 2005

Amendment #2 - June 15, 2012

NEKANOOTĀWINĒK - TIPĀNIMISOWIN

TABLE OF CONTENTS

PREAMBLE	1
PART 1: PRELIMINARY MATTERS	2
1. Title	3
2. Interpretation	3
3. Authority to Govern	7
4. Purpose	7
5. Description of OCN Lands	8
PART 2: OPASKWAYAK CREE NATION LEGISLATION	13
6. Law-Making Powers	13
7. Law-Making Procedures	14
8. Publication of Laws	18
9. Commencement of Laws	19
PART 3: COMMUNITY APPROVAL	20
10. Rights of Eligible Voters	20
11. Community Input	20
12. Community Approval Meeting	21
13. Procedure at a Community Approval Meeting	21
14. Ratification Votes	23
PART 4: PROTECTION OF LAND	25
15. Expropriation.....	25
16. Heritage Sites.....	27
17. Voluntary Land Exchanges and Protections.....	27
PART 5: ACCOUNTABILITY	29
18. Conflict of Interest	29
19. Financial Management	31
20. Financial Records	33
21. Audit	33
22. Annual Report	34
23. Access to Information	35

TABLE OF CONTENTS CONTINUED.....

PART 6:	LAND ADMINISTRATION	35
24.	Land Authority	35
25.	Land Authority Member	36
26.	Chairperson of the Land Authority	38
27.	Revenues from Lands	39
28.	Registration of Interests and Licenses	39
29.	Duplicate Lands Register	40
PART 7:	INTERESTS AND LICENSES IN LAND	41
30.	Limits on Interest and Licenses	41
31.	REPEALED	41
32.	Interests and Licenses	41
33.	Allocation of Land	42
34.	Transfer and Assignment of Interest	42
35.	Limits on Mortgages and Seizures	43
36.	Residency and Access Rights	43
37.	Spousal Interest Land Law	44
PART 8:	DISPUTE	45
38.	Purpose	45
39.	Appeal Panel	46
40.	Procedure to File an Appeal	46
41.	Facilitated Discussions	48
42.	REPEALED	49
43.	REPEALED	49
44.	REPEALED	49
45.	REPEALED	49
PART 9:	TRADITIONAL UNREGISTERED OR UNDOCUMENTED INTEREST	50
46.	Traditional Interest Claim	50
PART 10:	OTHER MATTERS	52
47.	Liability	52
48.	Offences	52
49.	Amendments to Land Code	52
50.	Commencement	53

OPASKWAYAK CREE NATION LAND CODE

PREAMBLE

WHEREAS the Opaskwayak Cree Nation has a profound relationship with the land that is rooted in respect for the Spiritual value of the Earth and the gifts of the Creator and has a deep desire to preserve its relationship with the land;

AND WHEREAS Opaskwayak Cree Nation's Cree views land as being sacred, a gift from the Creator, from this cultural view, the land is held collectively for the use of all the community citizens with its rich resources belonging to everyone;

AND WHEREAS Opaskwayak Cree Nation Citizen's responsibility is to protect the land and keep it safe for future generations, the land and its resources are held by the people for the people and it is an important value and basic law of the Kitiniminawuk (Our People);

AND WHEREAS the Opaskwayak Cree Nation's vision is to have our people determine a true self-government which incorporates our cultural values and traditions as the center of this vision and collective holding of land which is based on our own unique history;

AND WHEREAS while pursuing this vision of self-government, independence and self-sufficiency, we are determined to continue to progress towards the future through planned social and economic growth providing a range of social, education and economic services necessary to support and raise our standard of living;

AND WHEREAS this vision will be reached through development of our human resources and economic base, the foundation of which is our land base and natural resources;

AND WHEREAS Opaskwayak Cree Nation has entered into the *Framework Agreement on First Nation Land Management* with Canada on February 12, 1996, as amended, and as ratified on behalf of the Government of Canada by the *First Nations Land Management Act*, S.C. 1999, C. 24;

Opaskwayak Cree Nation Land Code

AND WHEREAS the Opaskwayak Cree Nation (OCN) has the option of withdrawing its land from the land provisions of the *Indian Act* in order to exercise control over its land and resources for the use and benefits of its Citizens, rather than having its land managed on its behalf by Canada;

AND WHEREAS the *Opaskwayak Cree Nation Land Code* was ratified by the Opaskwayak Cree Nation Citizens on June 20, 2002 and registered in the First Nation Lands Registry as instrument number LMA000698;

AND WHEREAS the *Opaskwayak Cree Nation Land Code* came into effect on August 1, 2002;

AND WHEREAS the *Opaskwayak Cree Nation Land Code* pursuant to Section 49.2 states "All amendments the *Opaskwayak Cree Nation Land Code* other than technical amendments must receive community approval by Ratification Vote to be effective";

AND WHEREAS in Section 5.2 of the *Opaskwayak Cree Nation Land Code* states that Land which becomes a reserve through a land claim settlement or treaty land entitlement or land exchange or any other process may be made subject to the *Opaskwayak Cree Nation Land Code*, and to an environmental assessment satisfactory to Opaskwayak Cree Nation;

AND WHEREAS Opaskwayak Cree Nation Chief and Council and Opaskwayak Cree Nation Citizens has deemed it necessary to amend the *Opaskwayak Cree Nation Land Code* to build in a process for accepting any additional lands to be managed under the *Opaskwayak Cree Nation Land Code*;

AND WHEREAS Amendment #1 to the *Opaskwayak Cree Nation Land Code* was ratified by the Opaskwayak Cree Nation Citizens on June 15, 2005 and registered in the First Nation Lands Registry as instrument number LMA02962;

NOW THEREFORE, this *Opaskwayak Cree Nation Land Code* has been amended as of June 15, 2012, by Ratification Vote of Opaskwayak Cree Nation Eligible Voters;

AND FURTHER THAT the *Opaskwayak Cree Nation Land Code* is the fundamental Land Law of the Opaskwayak Cree Nation.

**PART 1
PRELIMINARY MATTERS**

1. Title

Title

1. The title of this enactment is the *Opaskwayak Cree Nation Land Code*.

2. Interpretation

Definitions

- 2.1 The following definitions apply in this *Land Code*:

“Absolute Majority” means 50% + 1 of the whole Chief and Council;

“Aboriginal Rights” refers to a range of rights held by aboriginal peoples, including but not limited to hunting, fishing, gathering, social and ceremonial purposes and by which aboriginal rights and freedoms are constitutionally protected in s. 25 of the Canadian Charter of rights and Freedoms and s. 35(1) of the Constitution Act, 1982 recognizes and affirms the existing, aboriginal and treaty rights of aboriginal peoples;

“Aboriginal Title” means a unique bundle of property rights associated with land exclusively occupied by an aboriginal community before the assertion of British Sovereignty and held communally by members of an aboriginal nation (what OCN Citizens refer to as traditional territory, those lands that have not been set aside as reserve lands where OCN Citizens exercise their aboriginal rights);

“Appeal Panel” means a panel established by Chief and Council to hear complaints or contentious issues and renders a decision on an appeal, Chief and Council and the Land Authority shall be informed of the outcome;

“Community Approval” and/or “Community Approval Meeting” means a community meeting of eligible voters held for the purpose of voting on a lands issue or land law, as set out in this *Land Code*;

“Community Consultation” means process of information being presented to OCN Citizens either through a Community Meeting, notices, door-to-door, web sites media or other media;

"Community Land" means any Opaskwayak Cree Nation Land in which all OCN Citizens have a common interest;

"Community Meeting" means a meeting of Opaskwayak Cree Nation (OCN) Citizens under Part 3 of this *Land Code*;

"Community Vote" is a general vote of Opaskwayak Cree Nation (OCN) eligible voter conducted under this *Land Code* at a Community Meeting;

"Chief and Council" means the Council of the Opaskwayak Cree Nation (OCN) or any successor elected government of OCN;

"Elder" means an elder that sits on the Council of Elders and appointed by Chief and Council to provide advice and spiritual guidance;

"Eligible Voter" means for the purpose of voting in respect to land matters under this *Land Code*, an OCN Citizen of Opaskwayak Cree Nation who has attained the age of 18 years, on or before the day of the vote;

"Eligible Registered Voter" means an Eligible Voter who has registered to vote at a Ratification Vote;

"First Nation Land Register" means the register maintained by the Department of Indian Affairs and Northern Development under 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, including Opaskwayak Cree Nation, on February 12, 1996, as amended;

"Immediate Relative", in respect of a person, means the person's parent or stepparent, sister, brother or stepsister, stepbrother (natural or custom/adopted), child (natural or custom/adopted), or spouse (legal or common law);

"Individual Transfer Agreement" means the Transfer Agreement between the Opaskwayak Cree Nation and Her Majesty the Queen in Right of Canada in accordance with Section 6.1 of the *Framework Agreement*, dated February 12, 1996;

Opaskwayak Cree Nation Land Code

"Interest", in relation to First Nation land, means any interest, rights or estate of any nature in or to that land, including a lease, easement, right of way, servitude, or profit à prendre, but does not include title to that land in accordance with Section 1 of the *Framework Agreement*, dated February 12, 1996;

"Land Authority" means the executive body that set out the principles, guidelines, rules, procedures and processes by which Opaskwayak Cree Nation will exercise control and management over its lands and resources consistent with the *Framework Agreement on First Nation Land Management* and the *First Nation Land Management Act*;

"Land Authority Member" means a member of the Land Authority, either appointed by Council or elected, to take office as a Land Authority Member of the Land Authority;

"Land Division" means the administration office where technical staff is responsible for OCN Land issues;

"*Land Code*" means *Opaskwayak Cree Nation (OCN) Land Code*;

"Land Law" means a Law enacted pursuant to this *Land Code*;

"Land Resolution" means a resolution of Chief and Council made pursuant to this *Land Code*;

"License" in relation to First Nation Land, means any right of use or occupation of First Nation land, other than an interest in that land in accordance with Section 1 of the *Framework Agreement*, dated February 12, 1996;

"OCN Citizens" means a person whose name appears on the Opaskwayak Cree Nation Membership List (opaskwayak kowtukisochik);

"OCN" means the Opaskwayak Cree Nation;

"OCN Land" means all the lands referred to in this *Land Code*, including all the interests, rights and resources that belong to those reserve lands;

"OCN Land Register" means the register maintained by the Opaskwayak Cree Nation (OCN) for the registration of documents relating to OCN Land under this *Land Code*;

Opaskwayak Cree Nation Land Code

“Person” means any person, including an OCN Citizen, who has any Interest or License in OCN Land;

“Ratification Vote” means a vote as set out in this *Land Code*;

“Resolution” means a Band Council Resolution (BCR) enacted under this *Land Code*;

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

“Spousal Interest” means the Interest of a Spouse in OCN Land as set out in, and accordance with, the Spousal Interest Land Law 2006/001 enacted on the 15th day of February, 2006.

“Youth” means a youth who has been elected a member of the Junior Chief and Council to provide advice from the youth’s perspective.

Gender

2.2 Wherever the singular and the masculine are used throughout this *Land Code*, the same shall be construed as meaning the plural, or the feminine or neuter where the context or the parties hereto so require.

Paramountcy

2.3 If there is an inconsistency between this *Land Code* and any other enactment of Opaskwayak Cree Nation in regard to the management, administration or governance of Lands, including by-laws enacted pursuant to Section 81 of the *Indian Act*, this *Land Code* prevails to the extent of the inconsistency.

Culture and traditions

2.4 The structures, organizations and procedures established by or under this *Land Code* shall be consistent with the culture, traditions and custom of OCN, unless otherwise provided.

Non-abrogation (not taking away)

2.5 This *Land Code* does not abrogate or derogate from any aboriginal, treaty or freedoms that pertain now or in the future to OCN or OCN Citizens.

Opaskwayak Cree Nation Land Code

Fair Interpretation

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

Lands and interest affected

2.7 A reference to "Land" in this *Land Code* means all rights and resources in and of the land, and includes:

- (a) the water, beds underlying water, riparian rights, air space and renewable and non-renewable resources in and of that land, to the extent that these are under the jurisdiction of Canada or OCN; and
- (b) all the Interests and Licenses transferred to OCN by Her Majesty in Right of Canada listed in the Individual Transfer Agreement

Calendar Days

2.8 Any reference in this *Land Code* dealing with time frames such as days shall be calendar days.

3. Authority to Govern

Origin of authority

3.1 By enacting this *Land Code*, OCN is giving effect to its Aboriginal Title in that portion of its territories comprised of OCN Land.

Flow of authority

3.2 The authority of OCN to govern and administer its lands and resources flows from the Creator to the people of OCN, and from the people to the Chief and Council according to customs, traditions and laws.

4. Purpose

Purpose

4.1 The purpose of this *Land Code* is to set out the principles, guidelines and processes by which OCN will exercise control over its lands and resources consistent with the *Framework Agreement*.

5. Description of OCN Lands

OCN Land

5.1 OCN Land includes all reserve lands listed in the Individual Transfer Agreement and such other lands as may be included in the Individual Transfer Agreement as amended from time to time, the OCN lands are identified as:

(a) those OCN Lands listed as of August 1, 2002 includes:

Opaskwayak Cree Nation Reserve 21A

- containing about 1,590 acres more or less including mines and minerals;

Opaskwayak Cree Nation Reserve 21B

- containing about 150 acres more or less including mines and minerals;

Opaskwayak Cree Nation Reserve 21C

- containing about 41 acres more or less including mines and minerals;

Opaskwayak Cree Nation Reserve 21D

- containing about 177 acres more or less including mines and minerals;

Opaskwayak Cree Nation Reserve 21D, Salt Channel

- containing about 649 acres more or less including mines and minerals;

Opaskwayak Cree Nation Reserve 21E

- containing about 5,208 acres more or less including mines and minerals;

Opaskwayak Cree Nation Reserve 21F

- containing about 366 acres more or less including mines and minerals;

Opaskwayak Cree Nation Reserve 21G

- containing about 10 acres more or less including mines and minerals;

Opaskwayak Cree Nation Reserve 21I

- containing about 893 acres more or less including mines and minerals;

Opaskwayak Cree Nation Reserve 21J

- containing about 120 acres more or less including mines and minerals;

Opaskwayak Cree Nation Reserve 21K

- containing about 328 acres more or less including mines and minerals;

Opaskwayak Cree Nation Land Code

Opaskwayak Cree Nation Reserve 21L

- containing about 324 acres more or less including mines and minerals;

Opaskwayak Cree Nation Reserve 21N

- containing about 261 acres more or less including mines and minerals;

Opaskwayak Cree Nation Reserve 21P

- containing about 1,583 acres more or less including mines and minerals;

Opaskwayak Cree Nation 21 - Stoney Point

- containing about 48 acres more or less including mines and minerals;

Opaskwayak Cree Nation Root Lake Reserve 231

- containing about 60 acres more or less including mines and minerals;

Opaskwayak Cree Nation 27A - Carrot River Saskatchewan

- containing about 3,194 acres more or less including mines and minerals.

- (b) OCN Land added by way of amendment to the Individual Transfer Agreement after August 1, 2002 includes:

Root Lake Beach Ridge Site Indian Reserve

- containing about 8,699.60 acres more or less including mines and minerals, these lands are set apart as OCN Land, registered in the First Nation Land Registry as LMA04971;

Opaskwayak Cree Nation 21A South Indian Reserve

- containing about 123 acres more or less including mines and minerals, these lands are set apart as OCN Land, registered in the First Nation Land Registry as LMA09469;

Opaskwayak Cree Nation Rocky Lake Indian Reserve No.1

- containing about 1,857.70 acres more or less including mines and minerals, these lands are set apart as OCN Land, registered in the First Nation Land Registry as LMA09469;

Opaskwayak Cree Nation Egg Lake Indian Reserve No.1

- containing about 13,695 acres more or less including mines and minerals, these lands are set apart as OCN Lands, registered in the First Nation Land Registry as 4017143;

- (c) any additional lands accepted and approved.

Opaskwayak Cree Nation Land Code

Additional OCN Lands

5.2 Additional lands acquired and/or selected through land claim settlements, treaty land entitlement, land exchanges, unresolved exchanges and/or other processes which are accepted and set aside as reserve lands shall be made subject to and managed pursuant to the *Opaskwayak Cree Nation Land Code*, in accordance with the procedures set out in Section 5.3 to 5.9.

Community Approval of Additional Lands

5.3 Upon such additional lands being identified with reasonable certainty, but prior to the acceptance of such additional lands, a Community Approval Meeting shall be held, in accordance with Section 13 of the *Opaskwayak Cree Nation Land Code*, to approve and accept the additional lands under the management and jurisdiction of the *Opaskwayak Cree Nation Land Code*.

Pre-Approval and Granting Interest to Third Party

5.4 Where additional lands are subject to pre-existing third (3rd) party interest, a Community Approval Meeting may authorize:

- (a) approving a contingent agreement to cancel the pre-existing third (3rd) party interest, in exchange for granting of such reasonable equivalent interest as may be conferred within the jurisdiction and scope of the *Opaskwayak Cree Nation Land Code*, in anticipation of and to take effect upon the additional lands entering under the management and jurisdiction of the *Opaskwayak Cree Nation Land Code*; and
- (b) other agreements to confer rights or interests on additional lands, in anticipation of, and to take effect upon the additional lands entering under the management and jurisdiction of the *Opaskwayak Cree Nation Land Code*.

Giving effect to Pre-Approval

5.5 An authorization of a contingent agreement or other agreement at a Community Approval Meeting as set out in Section 5.3 and 5.4 herein, shall:

- (a) be deemed to be a Community Approval Meeting as set out in Section 12 of the *Opaskwayak Cree Nation Land Code*;

- (b) be deemed to be binding upon the additional lands entering under the management and jurisdiction of the *Opaskwayak Cree Nation Land Code*; and
- (c) any contingent agreement entered pursuant to said authorization shall be deemed to be in compliance with the provisions of Section 12 and 13 of the *Opaskwayak Cree Nation Land Code*.

Outstanding Land
Exchange Process

5.6 Notwithstanding Section 14.1(d), 17.2 and 17.7 of the *Opaskwayak Cree Nation Land Code*, where exchange of lands are contemplated, pursuant to agreements previously entered into and set out in Annex E of the Individual Transfer Agreement, a Community Approval Meeting shall:

- (a) be held in accordance with Section 5.3 to give binding approval and authorization for the exchange;
- (b) include approving and authorizing the Chief and Council, and/or designate to enter into agreements or do such other things necessary to give effect to the exchange; and
- (c) FOR FURTHER CERTAINTY, Section 14.1(d), and 17.7 of the *Opaskwayak Cree Nation Land Code* are not applicable to and shall not be binding upon the exchanges set out in Annex E of the Individual Transfer Agreement.

Ratifying Community
Approval by Resolution

5.7 Upon community acceptance of additional lands and authorization for any contingent agreement, other agreement or exchange, the Chief and Council shall ratify the community's approval by:

- (a) signing a Land Resolution that ratifies the Community Approval Meeting process; and
- (b) entering into such agreements as are required, which shall be forwarded to the appropriate parties affirming the community's acceptance.

Opaskwayak Cree Nation Land Code

Process prior to
Setting Land Aside

- 5.8 Subject to Section 5.9, the Chief and Council, in order to facilitate the transfer of the additional lands to the jurisdiction of the *OCN Land Code* or the exchange of lands pursuant to Section 5.6, and upon community acceptance of the additional lands and authorization for any contingent agreement, other agreement or exchange, shall do or undertake all things necessary and within their power, including but not restricted to:
- (a) notice to Canada and other third (3rd) parties as may required;
 - (b) requesting, obtaining or commissioning surveys with respect to the additional lands;
 - (c) requesting, commissioning or otherwise obtaining studies or reports with respect to the additional lands;
 - (d) negotiating, finalizing and signing contingent agreements or other agreements with respect to the additional lands;
 - (e) make a request to the applicable jurisdiction, that holds title to the land, that upon an agreement being reached, that applicable jurisdiction, will upon being advised by Opaskwayak Cree Nation, do everything necessary for the transfer of land to Canada as Federal Lands, and such jurisdiction may include:
 - i. lands held by the Province of Manitoba;
 - ii. lands held by the Province of Saskatchewan; and
 - iii. those lands held by OCN in fee simple;
 - (f) requesting that Canada accept additional lands as Federal Lands, where they are not already so;
 - (g) requesting that Canada set aside additional lands which are Federal Lands as Reserve Lands held in Trust and on behalf of OCN Citizens of the Opaskwayak Cree Nation, where they are not already so;
 - (h) requesting that Canada take such other additional steps to ensure that the additional lands are brought under the management and jurisdiction of the *Opaskwayak Cree Nation Land Code*; and

- (i) requesting amendments to the Individual Transfer Agreement and other documents or agreements to recognize, enact and put into effect the transfer of the additional lands to the management and jurisdiction of the *Opaskwayak Cree Nation Land Code*.

Environmental
assessments

- 5.9 Notwithstanding any of the above, any additional lands or exchange lands shall be required to be subject to an environmental assessment satisfactory to the Chief and Council of OCN, prior to being brought under the jurisdiction and management of the *Opaskwayak Cree Nation Land Code*.

PART 2 OPASKWAYAK CREE NATION LEGISLATION

6. Law-Making Powers

Council may make Laws

- 6.1 Chief and Council may make Land Laws which are consistent with this *Land Code*, respecting:
- (a) the development, conservation, protection, management, use and occupancy of OCN Land;
 - (b) Interests and Licenses in relation to OCN Land; and
 - (c) any matter necessary or ancillary to Land Laws respecting OCN Land.

Example of Laws

- 6.2 For greater certainty, Chief and Council may make Land Laws including, but not limited to:
- (a) regulation, control and prohibition of zoning, land use and land development;
 - (b) creation, regulation and prohibition of Interest and Licenses in relation to OCN Land;

- (c) regulation and control of mines and minerals to OCN Land;
- (d) environmental assessment and protection;
- (e) provision of local services in relation to OCN Land and the imposition of equitable user charges;
- (f) enforcement of OCN Land Laws; and
- (g) provision of services for the resolution, outside the courts, of disputes in relation to OCN Land.

7. Law-Making Procedures

Request for Land Laws

7.1 A request for the development of a Land Law may be introduced to Chief and Council by:

- (a) the Chief; or
- (b) a Councilor; or
- (c) the General Manager, or
- (d) the Land Authority or its delegate.

If a OCN Citizen Request

7.2 If an OCN Citizen requests a Land Law be developed and introduced to Chief and Council they may do so by approaching any of the individuals listed in Section 7.1.

Initial Introduction of Land Law to Chief and Council

7.3 The initial request for a Land Law to be developed shall be submitted at a duly convened meeting of Chief and Council by one (1) of the individuals listed in Section 7.1.

Opaskwayak Cree Nation Land Code

Review of Request

- 7.4 Chief and Council will then review the request and if they agree that a Land Law is required the issue regarding drafting the Land Law and consultation with the community will be delegated to the Land Authority.

Draft of Proposed Land Law

- 7.5 Upon development of a Land Law, the proposed Land Law will be reviewed and recommended by the Land Authority before an official notice is given to the community for Community Consultation.

Community Consultation

- 7.6 Before a proposed Land Law is enacted by Chief and Council, the proposed Land Law will be presented to the community for Community Consultation in one (1) or more of the following means:
- (a) posting of notice along with a brief description of content, in a public place in the administration offices of OCN, and request for concerns in writing to be submitted to the Land Division;
 - (b) publishing a notice along with a brief description of content, in the weekly newspaper regularly distributed on OCN Land, for at least two (2) successive editions and request any concerns in writing to be submitted to the Land Division;
 - (c) making an announcement, via media which may include by not limited to radio, newspaper, web site and social media, requesting concerns be submitted in writing to the Land Division, such media usage will reach a wider area; or
 - (d) holding a Community Consultation Meeting.

Submission of Land Law to Chief and Council

- 7.7 Once Community Consultation has been completed and the proposed Land Law has been reviewed by the Land Authority, the proposed Land Law will be recommended and forwarded to Chief and Council for their approval.

Opaskwayak Cree Nation Land Code

Process for Land Law

- 7.8 Chief and Council, upon receiving recommendation to enact a proposed Land Law will ensure that are three (3) separate readings. Before a Land Law is enacted:
- (a) the 1st reading of the proposed Land Law will be introduced by the Land Authority at a duly convened meeting of Chief and Council held a minimum of sixty (60) days before the Land Law is to be enacted;
 - (b) the 2nd reading of the proposed Land Law shall be after Community Consultation and legal review has been completed; and
 - (c) the 3rd reading shall incorporate any additional changes.

Proposed Land Law Available

- 7.9 The proposed Land Law will be made available at the Land Division's office and Council chambers at during the reading process.

Ceasing of Readings

- 7.10 During the three (3) reading process, Chief and Council may suspend and/or cease the enactment of a Land Law if:
- (a) more consultation or additional information is required or cannot be obtained within a reasonable time frame, or a timely manner; and/or
 - (b) where a significant time frame is required to gather the additional information or legal advice, the enactment process will cease and the proposed Land Law will start at the beginning with the 1st, 2nd and 3rd reading.

Enactment of Land Law

- 7.11 A Land Law on the 3rd reading of Council shall be deemed enacted if it is approved by an Absolute Majority of Chief and Council at a duly convened meeting which is open to the OCN Citizens.

Certificate of Land Law

- 7.12 Two (2) original copies of any Land Law enacted shall be signed by an Absolute Majority of Chief and Council at the duly convened meeting approving the Land Law.

Opaskwayak Cree Nation Land Code

Witness of Land Law

7.13 The Recording Secretary for Chief and Council meetings or such other person designated by Chief and Council shall sign as a witness to Chief and Council signatures to the enactment of a Land Law.

Urgent matters

7.14 Chief and Council may enact a Land Law without the preliminary steps required under section 7.2 - 7.13, if Chief and Council are of the opinion that the Land Law is needed urgently to protect OCN Land or Citizens in cases such as health, safety or other emergencies.

Expiry Interim Land Law

7.15 A Land Law enacted under Section 7.14 expires six (6) months after its enactment unless it is re-enacted in accordance with Section 7.2 - 7.13.

Repealing Land Law Enacted by Ratification Vote

7.16 A Land Law enacted by way of a Ratification Vote shall not be repealed by Chief and Council without Community Consultation.

Notice of Repealing a Land Law

7.17 A Land Law may be repealed from time to time, and such reason for repealing a Land Law will be specified pursuant to 7.18, upon giving a minimum of thirty (30) days notice to the OCN Citizens that a Land Law may be repealed and that the OCN Citizens shall have the opportunity within thirty (30) days to express any questions or concerns. The notice shall:

- (a) be posted at the administration offices of OCN;
- (b) be published in the weekly newspaper regularly distributed on OCN Land; and/or
- (c) use other media including but not limited to the web site and social media, Chief and Council deems it necessary.

Reason for Repealing

7.18 The reason for repealing a Law Land may include but not limited to:

Opaskwayak Cree Nation Land Code

- (a) the Land Law is deemed inadequate where the intent of the Land Law is no longer valid; or
- (b) such other reasons as Chief and Council deems sufficient and advises or set out.

Repealed

7.19 The Land Law being repealed will be presented to an Absolute Majority of Chief and Council and at a duly convened meeting, and that:

- (a) Chief and Council will be informed of:
 - i. the method of notifying OCN Citizens;
 - ii. the Community Consultation process utilized, if required
 - iii. any concerns or questions OCN Citizens had in regards to repealing the Land Law;
- (b) upon review of the information provided, Chief and Council shall make a decision whether to repeal the Land Law;
- (c) upon deciding to repeal the Land Law, Chief and Council shall sign a Resolution repealing a Land Law; and
- (d) a notice of the decision of Chief and Council will be posted in the OCN administration office, Council chambers and published in local newspaper.

8. Publication of Laws

Publication

8.1 All Land Law motions shall be recorded in the minutes of Chief and Council.

Posting Laws

8.2 Chief and Council shall:

- (a) post notice, that copies of the Land Law will be made available at minimum of seven (7) days after a Land Law has been enacted, in the administration offices of OCN;

- (b) within a minimum of fourteen (14) days after a Land Law has been enacted, publish a summary of the Land Law, in the weekly newspaper regularly distributed on OCN Land.

Registry of Land Laws

- 8.3 Chief and Council shall keep at its Council Chambers, a register of the original of all active Land Laws and Land Laws that have been repealed or are no longer in force.

Duplicate Registry for Land Laws

- 8.4 A duplicate register for all OCN Land Laws and repealed Land Laws will be maintained at the Land Division, of OCN, for administration purposes.

Land Law Copies

- 8.5.1 The following OCN Departments will be provided copies of Land Laws:

- (a) Land Division;
- (b) administration office;
- (c) enforcement department;
- (d) finance and administration department; and
- (e) any other department as required.

Access to Land Law

- 8.6 Any individual may obtain a copy of a Land Law or a Land Resolution during regular working hours and payment for such copy(s) of Land Law or Land Resolution will be at reasonable fee that is set by Chief and Council or body designated by Chief and Council.

9. Commencement of Laws

Law taking effect

- 9.1 A Land Law enacted by Chief and Council takes effect on the date of its enactment or such later date as may be specified by the Land Law.

**PART 3
COMMUNITY APPROVALS**

10. Rights of Eligible Voters

Eligible to Vote:

10.1 Each OCN Citizen who has attained the age of eighteen (18) years on or before the day of a vote is eligible to vote at a Community Approval Meeting and at a Ratification Vote.

11. Community Input

Prior meeting of
OCN Citizens

11.1 The Chief and Council shall convene a Community Meeting to receive OCN Citizens input prior to the 2nd reading, as set out in 7.8(b) for the following Land Laws:

- (a) a Land Law respecting a community plan or subdivision plan;
- (b) a Land Law affecting a heritage site;
- (c) a Land Law respecting mines and minerals;
- (d) a Land Law respecting environmental assessment;
- (e) a Land Law respecting an environmentally sensitive property;
- (f) a Land Law respecting the rate and criteria for the payment of fees of rent for land; and
- (g) any Land Law or class of Land Laws that Chief and Council, by Land Resolution, declares to be subject to this section.

Process to
Implement Laws

11.2 The Chief and Council along with the Land Authority shall establish a community process to develop and implement the Land Laws.

12. Community Approval Meeting

Process to Implement Laws

12.1 Community Approval at a Community Meeting must be obtained for the following:

- (a) any grant or disposition of an Interest or License in any OCN Land beyond 40 years;
- (b) any renewal of a grant or disposition of an Interest or License in any OCN Land that extends the original term beyond 40 years;
- (c) any charge or mortgage of leasehold Interest over 40 years;
- (d) enactment of a Land Law on heritage site referred to in Section 16;
- (e) any OCN natural resource inventory and management plan that grants disposition of any natural resources on OCN Land that has not been identified in the land use plan;
- (f) set out the general rules and procedures that apply to revenues from natural resources belonging to OCN Land; and
- (g) any other Land Law or class of Land Laws that Chief and Council, by Land Resolution, declares to be subject to this Section.

13. Procedure at a Community Approval Meeting

Voting

13.1 Decisions at a Community Approval Meeting are to be made by a majority of 50% + 1 of the Eligible Voters present at that meeting.

Notice of meeting

13.2 The Council shall give written notice of a Community Approval Meeting that:

- (a) specifies the date, time and place of the meeting;

Opaskwayak Cree Nation Land Code

- (b) contains a brief description of the matters to be discussed and decided on at the meeting; and
- (c) the minimum number of Eligible Voters required to affirm or deny a Land Law.

Manner of notice

13.3 The notice of a Community Approval Meeting must be given to the OCN Citizens by:

- (a) posting the notice in a public place at two (2) or three (3) locations on OCN Land, at least thirty (30) days before the meeting;
- (b) mailing the notice to OCN Citizens living off OCN Land who have registered their names to receive information;
- (c) publishing the notice in the weekly newspaper regularly distributed on OCN Land at least ten (10) days before the meeting;
- (d) making an announcement in the media, web site and social media, in such way as it will reach a wider area; and
- (e) such additional methods as the Chief and Council may consider appropriate in the circumstances.

OCN Citizens to attend

13.4 All OCN Citizens have a right to attend a Community Approval Meeting.

Other Individual attending

13.5 Other individuals may attend a Community Approval Meeting with the permission of the Chief and Council or their designate.

Amount of Council to be in attendance

13.6 In order to hold a Community Approval Meeting there must be at least an Absolute Majority of Chief and Council in attendance.

Opaskwayak Cree Nation Land Code

Minimum for
quorum, community

13.7 The Chief and Council may by Land Law or Resolution, establish a minimum number or percentage of Eligible Voters who are required to be present as a quorum for the purposes of making a decision at a Community Approval Meeting.

Other meetings

13.8 The Chief and Council may schedule a second (2nd) Community Approval Meeting if:

- (a) not enough Eligible Voters attend the initial Community Approval Meeting;
- (b) the Community Approval Meeting was postponed due to unforeseen circumstances; or
- (c) additional information is requested by a substantial number OCN Citizens attending the first (1st) meeting;

Second Meeting

13.9 Where a second (2nd) meeting is scheduled, as a result of the attendance of less than a quorum of Eligible Voters at the first (1st) meeting, then the quorum provisions under Section 13.7 shall be suspended, and the Eligible Voters in attendance at the second (2nd) meeting shall constitute a quorum for purposes of making a decision.

Other Land Laws

13.10 For greater certainty, the Chief and Council may make Land Laws or Land Resolutions respecting Community Approval Meetings.

14. Ratification Votes

Ratification

14.1 Community approval by a Ratification Vote must be obtained for the following:

- (a) any expropriation of an Interest in OCN Land by OCN;
- (b) any voluntary exchange of OCN Land;

Opaskwayak Cree Nation Land Code

- (c) any amendment to the *Individual Transfer Agreement* that reduces the amount of funding provided by Canada;
- (d) any amendment to this *Land Code* other than technical amendments under Section 46.1 of this *Land Code*; and
- (e) any Land Law or class of Land Laws that Chief and Council, by Land Resolution, declares to be subject to this Section.

Individual Transfer Agreement with Canada

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

Ratification Process

14.3 Any Ratification Vote required under this *Land Code* shall be conducted in substantially the same manner as the *Opaskwayak Cree Nation Ratification Process*, which was used to ratify this *Land Code*.

No Verifier

14.4 A Verifier is not required in a Ratification Vote.

Percentage for Ratification Votes

14.5 Ratification Votes shall conform to and be in accordance with the Opaskwayak Cree Nation Community Ratification Process, including the minimum number or percentage of Eligible Voters required, approved by Chief and Council on April 18, 2005, and as amended from time to time by Chief and Council.

Minimum Requirement for Approval

14.6 A matter shall be considered approved at a Ratification Vote, if a majority of the Eligible Registered Voters cast a vote in favour of the matter, subject only to the provisions of Sections 14.5.

**PART 4
PROTECTION OF LAND**

15. Expropriation

Rights and interest
may be expropriated

15.1 An Interest or License in OCN Land, or in any building or other structure on those lands, may only be expropriated by OCN in accordance with the *Framework Agreement* and any Land Law enacted for the purpose of establishing the rights and procedures for community expropriations.

Community purposes

15.2 An expropriation may only be made for a necessary community purpose or works of OCN, including but not limited to; a fire hall, sewage or water treatment facility, community centre, public works, roads, schools, education facilities, recreation facility, daycare facility, hospitals, health-care facility, retirement home or infrastructure and any works and appurtenances reasonably necessary thereto.

Expropriation laws

15.3 Before proceeding to make any expropriations in accordance with this *Land Code*, the Chief and Council shall enact a Land Law respecting the rights and procedures for 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

15.4 Before OCN decides to expropriate an Interest or License, it shall make a public report on the reasons justifying the expropriation.

Opaskwayak Cree Nation Land Code

Rights that may not
be expropriated

15.5 An interest of Her Majesty the Queen in Right of Canada is not subject to expropriation by OCN.

Compensation by mutual agreement

15.6 The right of OCN to expropriate can only be exercised after a good faith effort to acquire, by mutual agreement, the Interest or License in OCN Land.

Community approval

15.7 In the case of an expropriation of an OCN Citizen's Interest, the expropriation must first receive community approval by Ratification Vote.

Compensation

15.8 OCN shall, in accordance with its Land Laws and the *Framework Agreement*,

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

Compensation: calculations

15.9 The total value of the compensation under this clause will be based on the following:

- (a) the assessed 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.

Assessed value

15.10 The "assessed value" as determined by reference to the property assessment found on the most recent assessment roll prepared pursuant to the OCN Land Tax By-Law (1996), if available, or by an assessment prepared according to the same criteria.

Neutral evaluation to
resolve disputes

15.11 The resolution of disputes concerning the right of OCN to expropriate, compensation or amount of compensation shall be determined in accordance with Part 8 of this *Land Code*.

16. Heritage Sites

Community approval
of development

16.1 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 Community Approval Meeting.

Land Use Plan

16.2 No amendment may be made to a land use plan to delete a heritage site unless the amendments are passed at a Community Approval Meeting.

17. Voluntary Land Exchanges and Protections

Exchanges with
other Parties

17.1 OCN may agree with another party to exchange a parcel of OCN Land for a parcel of 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 community approval by a Ratification Vote held in accordance with Section 14.

Land to be received

17.3 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 in size and assessed value than the OCN Land to be exchanged; and

Opaskwayak Cree Nation Land Code

- (b) it must become OCN Land subject to this *Land Code* and set apart as a reserve for OCN by Canada, in accordance with Article 14 of the *Framework Agreement*.

Negotiator

- 17.4 The individual who will have authority to negotiate a land exchange agreement on behalf of OCN must be designated by Resolution.

Additional land

- 17.5 OCN 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 OCN in fee simple or some other manner.

Federal consent

- 17.6 Before OCN concludes 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 Chief and Council may specify by Land Resolution; and
 - (b) consents to the manner and form of the exchange as set out in the exchange agreement.

Community Notice

- 17.7 Once negotiations on the land exchange agreement are concluded, the Chief and Council and/or their designate shall provide the following information to Eligible Voters at least sixty (60) days before the vote:
 - (a) a description of the OCN 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 provided;
 - (d) a report of a qualified appraiser setting out that the conditions in Section 17.3 have been met;
 - (e) a copy or summary of the exchange agreement;

- (f) a copy of the consent referred to in Section 17.6; and
- (g) and any other relevant documents.

Process of
land exchange

17.8 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 Chief and Council must pass a Resolution authorizing Canada to transfer administration and control of the land being exchanged to OCN, in accordance with the exchange agreement; and
- (c) a copy of the instruments transferring administration and control to the relevant parcels of land must be registered in the OCN Land Register and the First Nation Lands Register in Ottawa.

PART 5 ACCOUNTABILITY

18. Conflict of Interest

Application of rules

18.1 The rules in this part apply to the following individuals:

- (a) each member of Chief and Council;
- (b) each OCN employee whose responsibilities are land related; and/or
- (c) each individual who is a Land Authority Member or other body of OCN dealing with land related matters.

Duty to report and abstain

18.2 If an individual has any interest, financial or otherwise, in the matter being dealt with that might involve the individual or his Immediate Relative, the individual shall:

Opaskwayak Cree Nation Land Code

- (a) disclose the Interest to the Chief and Council, or the Land Authority or other body as the case may be; and
- (b) not take part in any deliberations on that matter or vote on that matter.

Common interests

18.3 Section 18.2 does not apply to any Interest that is held by a OCN Citizen in common.

Inability to act

18.4 If the Land Authority, committee or other body is unable to act due to a conflict of interest, the matter shall be referred to the Chief and Council.

Meeting of Eligible Voters

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

Specific Conflict Situations

18.6 No more than one (1) Land Authority Member from the same Immediate Relative may sit as a Land Authority Member.

Staff not Eligible

18.7 Any individual that is employed by the Land Division shall not be a Land Authority Member.

Disputes

18.8 Questions about whether a breach of this section has occurred may be referred to and dealt with in Part 8 of the *Land Code*.

Other laws

18.9 For greater certainty, the Chief and Council may enact a Land Law on enforcement process, to further implement this section.

19. Financial Management

Application

19.1 This section applies only to financial matters relating to OCN Land.

Establishment of bank accounts

19.2 The Chief and Council, shall maintain one or more financial accounts in a chartered bank, trust company, or First Nation's financial authority, as the case may be, and shall deposit in those accounts:

- (a) federal transfer payments made under the *Framework Agreement* for the management and administration of OCN Land;
- (b) all capital and revenue monies received from the sale, grant or disposition of any rights and interests in OCN Land;
- (c) all fees, rents, fines, charges and levies imposed by Land Law or Land Resolution in relation to use, occupation or transfer of a right or interest in OCN Land; and
- (d) any other land revenue received by OCN.

Signing officers

19.3 The Chief and Council shall designate signing authority from two (2) different groupings as per OCN Financial Policy dated April 27, 1993 and amendments made to it thereafter, until such time as the Land Authority establishes a Finance Policy.

Two signatures

19.4 To be valid, a cheque or other bill of exchange or transfer drawn on the account must be signed by two (2) financial signing authorities.

Fiscal year

19.5 The fiscal year of OCN begins on April 1 of each year and ends on March 31 of the following year.

Preliminary Budget Approval

19.6 The Land Authority will draft land budget for Council's approval at least than thirty (30) days prior to the new fiscal year, as per OCN Financial Policy.

Opaskwayak Cree Nation Land Code

If no budget

- 19.7 If Chief and Council do not adopt a Land budget for a fiscal year prior to the beginning of that fiscal year, the land budget and any supplementary land budget of the previous fiscal year apply until a new Land budget is adopted.

Adoption of budget

- 19.8 Prior to the beginning of each fiscal year, Chief and Council shall by motion at a duly convened meeting, approve and adopt, a land budget for that fiscal year. If Chief and Council deem it necessary, it may, in the course of the fiscal year, adopt supplementary budgets for that fiscal year.

Procedure

- 19.9 After adopting the Land budget or supplementary Land budget, the Council and/or appointed representative of the Land Authority shall:
- (a) explain the budget or supplementary budget to the OCN Citizens at an annual Community Meeting; and
 - (b) ensure that copies of the budget or supplementary budget are available to be viewed by OCN Citizens upon request, at the OCN administration office or Land Division offices during working hours.

Budget rules

- 19.10 The Chief and Council may make rules respecting the preparation and implementation of the Land budget.

Expenditures

- 19.11 The Chief and Council may not expend monies related to land or commit itself, by contract or otherwise, to expend monies related to land, unless the expenditure is authorized by or under a Land Law or an approved Land budget.

Budgeting Expenditures

- 19.12 All expenditures must be budgeted items and must be coded accordingly.

Financial Commitments

- 19.13 All payment and financial commitments will be in accordance with the annual budget, specific requirements of a funding arrangement, or with a Resolution of Chief and Council.

Financial Policy

19.14 OCN may, in accordance with this *Land Code*, adopt a financial policy to further manage monies related to OCN Land.

20. Financial Records

Financial records

20.1 Financial records related to OCN Land will be maintained and prepared in accordance with generally accepted accounting principles.

Financial statement

20.2 Within 120 days after the end of each fiscal year, the Chief and Council on behalf of OCN shall prepare a financial statement.

Consolidated accounts, etc.

20.3 The accounting, auditing and reporting requirements of this *Land Code* may be prepared and consolidated with, the other accounts, audits and reports of OCN for the initial fiscal year and each subsequent fiscal year.

21. Audit

Appointment of auditor

21.1 For each fiscal year, an independent auditor recognized by the province of Manitoba with a designation of Chartered Accountant, Certified General Accountant, or Certified Management Accountant, shall be appointed to audit the land related financial records of OCN.

Holding office

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

Vacancy in office

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

Remuneration

21.4 The auditor's remuneration shall be determined by OCN Financial Policy.

Duty of auditor

21.5 The auditor shall, within 120 days after the end of OCN's fiscal year, prepare and submit to the Chief and Council, a report on OCN's financial statement, stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of OCN.

Access to records

21.6 In order to prepare the report on OCN's financial statement, the auditor may at any reasonable times inspect any financial records of OCN and any person or body who administers money on behalf of OCN, if necessary for completion with the audit.

Explanation of auditor's report

21.7 The Chief and Council along with the Chairperson of the Land Authority shall present the auditor's report to the OCN Citizens at a Community Meeting or forum within forty-five (45) days of receipt of the audit.

22. Annual Report

Annual report

22.1 The Chief and Council, on behalf of OCN, shall make available an annual report on OCN Land issues within forty-five (45) days of receipt of the community's audit.

Contents

22.2 The annual report will include:

- (a) annual review of land management;
- (b) a copy and explanation of the audit as it applies to OCN Land; and
- (c) any other matter considered worth including by the Chief and Council or Land Authority.

23. Access to Information

Access

23.1 Any OCN Citizen may, during normal business hours at the main OCN administrative office or the Land Division of OCN, have reasonable access to:

- (a) the register of Land Laws;
- (b) the auditor's report; and
- (c) the annual report on land issues.

Copies to OCN Citizens

23.2 Any OCN Citizen may obtain a copy of the auditor's report or annual report on payment of a reasonable fee set by or under a Land Resolution of the Chief and Council.

Access to records

23.3 An individual authorized by the Chief and Council or their designate, may, at any reasonable time, inspect the records relating to OCN Land.

PART 6 LAND ADMINISTRATION

24. Land Authority

Land Law for Establishing a Land Authority

24.1 A Land Law known as the Land Law for Establishing a Land Authority, 2003/001, dated March 10, 2003, has been enacted, to establish and govern the conduct and operations of the Land Authority, and may be amended from time to time.

Specific provision

24.2 The Land Law specifically provides:

Opaskwayak Cree Nation Land Code

- (a) the ability to develop the land administration system;
- (b) advise the Chief and Council and its staff on matters respecting OCN Land;
- (c) recommend and draft Land Laws, regulations, Land Resolutions, policies and procedures respecting OCN Land to the Chief and Council;
- (d) the responsibility to hold regular and/or special Community Meeting to discuss land issues and make recommendations to Chief and Council on the decisions relating to Land issues;
- (e) to assist in the flow of information on land issues between OCN Citizens and the Chief and Council;
- (f) the responsibility to oversee community approvals under this *Land Code*; and
- (g) any other duties delegated by Land Resolution or Land Law.

Internal procedures

24.3 The Land Authority will make rules for the procedure for holding Land Authority meetings. These procedures will be consistent with those established by Chief and Council.

25. Land Authority Member

Land Authority Election Regulation

25.1 The Land Authority election and election procedures shall be governed by the Opaskwayak Cree Nation Land Authority Election Regulation, enacted on March 10, 2003 as amended from time to time.

Criteria

25.2 The Land Authority Member shall in accordance with the following:

- (a) must be an Eligible Voter;
- (b) must not be employed by the Lands Division;

- (c) no immediate relative can sit as a Land Authority Member;
- (d) must not be convicted by way of indictment within five (5) years prior to their nomination excluding convictions arising from assertion of Aboriginal Rights and treaty rights or title;
- (e) must not be currently in bankruptcy or under the supervision of a trustee in bankruptcy; and
- (f) must not be convicted of a corrupt practice in connection with an election, including accepting a bribe, dishonesty or wrongful conduct.

Residency

25.3 The majority of the Land Authority Members must be residents on OCN Land.

Selection and term

25.4 There shall be six (6) voting and two non-voting Land Authority Members, be selected as follows:

- (a) four (4) Land Authority Members shall be elected from the Eligible voters of OCN, in accordance with *OCN Land Authority Election Regulation* enacted on March 10, 2003, as amended from time to time, to sit for a term of four (4) years;
- (b) two (2) Land Authority Members shall be selected by and appointed by way of motion of Chief and Council from the sitting membership of the Chief and Council, to sit until replaced by motion of Chief and Council, or until their term of office as members of Chief and Council expires;
- (c) one (1) non-voting, ex-officio Land Authority Member shall be selected from the Council of Elders and appointed by way of motion of Chief and Council as elder by the sitting Chief and Council; and
- (d) one (1) non-voting ex-officio Land Authority Member shall be selected from the OCN Junior Chief and Council and appointed by way of motion of Chief and Council as the Youth representative by the sitting Chief and Council, until their term of office as a member of Junior Chief and Council expired.

26. Chairperson of the Land Authority

Chairperson

26.1 The Chairperson of the Land Authority will be determined at the beginning of the elected Land Authority Members' new term of office, by way of a vote. Chief and Council will be informed of the appointment of Chairperson

Alternate Chairperson

26.2 If the Chairperson is unable to perform the functions of office, either temporarily or on a long term basis, the Land Authority shall appoint one (1) of the other Land Authority Members to act as or be the Chairperson and Chief and Council will be informed of the appointment.

Functions of Chairperson

26.3 The functions of the Chairperson are to:

- (a) exercise general control over the affairs of the Land Authority;
- (b) ensure the preparation of financial statements relating to all activities of the Land Authority, including the revenues and expenditures concerning OCN Land;
- (c) table the Land Authority's financial statements with the Chief and Council;
- (d) make recommendation to Chief and Council for their approval on any issues relating to land activities that require approval from Chief and Council;
- (e) present the annual report to the OCN Citizens on the activities of the Land Authority; and
- (f) ensure the audited annual financial statements are made available in accordance with Section 21.

27. Revenue from Lands

Determination of fees, and rent

27.1 The Land Authority shall ensure that Land Laws established in Section 6 for the following are maintained and implement:

- (a) the fees and rents for Interests and Licenses in OCN Land; and
- (b) the fees for services provided in relation to any OCN Land.

28. Registration of Interests and Licenses

Establishment and maintenance of OCN Land Register

28.1 Chief and Council by Land Law shall establish an OCN Land Register for the registration of documents relating to OCN Land. Thereafter, the Land Authority shall be responsible to maintain the OCN Land Register.

Enforcement of interests and licenses

28.2 Following the passage of a Land Law by Chief and Council establishing a OCN Land Register any Interest or License on OCN Land created or granted after the enactment of this Land Law shall not be enforceable unless it is registered in the OCN Land Register.

Absence of OCN Register

28.3 Until such time as an OCN Land Register is established by Land Law, an interest or license in OCN Land is not enforceable unless it is registered in the First Nation Land Registry.

Registration of consent or approval

28.4 No instrument that requires the consent of Chief and Council, community approval or Ratification Vote, may be registered unless the original or certified true copy of the document that evidences the consent or approval is attached.

Forms and procedures

28.5 The Land Authority may prescribe forms and procedures to create evidence of consents or approvals referred to in this section.

Access during
business hours

28.6 Unless certain documents are deemed confidential by Land Resolution, OCN Citizens shall have reasonable access to the OCN Land Register during normal business hours of the OCN administration, but no original documents shall be removed from the OCN Land Register, where necessary certified true copies of original documents may be provided by the OCN Land Register pursuant to Land Resolution or Land Laws regulating and governing the release of documents.

29. Duplicate Lands Registry

Duty to maintain
duplicate register

29.1 The Land Authority shall ensure that a duplicate copy of all registered documents that are registered in the OCN Land Register, are forwarded for deposit in the First Nation Lands Register in Ottawa.

Duty of OCN Citizens
to deposit

29.2 Every Person who wishes to have their Interest or License registered must submit application to the Land Authority for registration in both the OCN Land Register and the First Nation Land Register. The following must accompany the application for registering the document:

- (a) all documents must be approved by either the Land Authority, Chief and Council or community, whichever method is required for that document approval process.
- (b) an original or certified true copy of document.

**PART 7
INTERESTS AND LICENSES IN LAND**

30. Limits on Interests and Licenses

All Dispositions
in writing

30.1 An Interest or License to use OCN Land may only be created, granted, disposed of, assigned or transferred by a written document in accordance with this *Land Code* and any relevant Land Law.

Standards

30.2 The Land Authority may establish mandatory standards, criteria and forms for Interests and Licenses in OCN Land and receive approval of those standards from Chief and Council.

Improper transactions
void

30.3 A deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which any Person purports to grant, dispose of, transfer or assign an Interest or License in OCN Land after the date this *Land Code* takes effect is void if it contravenes this *Land Code*.

Non-OCN Citizens

30.4 A Person who is not an OCN Citizen must have any Interest or License registered in the OCN Land Register and the First Nation Land Register.

31. REPEALED

32. Interests and Licenses

Continuation of
existing interests

32.1 Any Interest or License in OCN 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.

Authority of dispositions

32.2 New Interest and Licenses in OCN Land may be granted on behalf of OCN in accordance with the Land Laws.

Conditional grant

32.3 The grant of an Interest, License or Permit may be made subject to the satisfaction of written terms and conditions.

33. Allocation of Land

Allocation of lots

33.1 The Chief and Council or delegate may allocate parcels of available land to OCN Citizens in accordance with the Land Law for Governing the Use and Occupancy of OCN Lands 2003/003 dated August 11, 2003, and which may be amended from time to time.

34. Transfer and Assignment of Interest

Land Law for Transfer or Assignment

34.1 The Chief and Council may enact regulations governing transfer, assignment succession or testamentary disposition of Interest under the "Land Law for Governing the Use and Occupancy of OCN Lands."

Approval

34.2 Subject to the provisions of any Land Law, the approval of the Land Authority shall be required for any transfer, assignment, succession or testamentary disposition of any Interest in OCN Land.

Testamentary Interests OCN Citizens

34.3 An OCN Citizen, subject to the approval of Chief and Council, and subject to the provisions of any Land Law, may transfer their Interest in OCN Land by testamentary disposition, including a will or in accordance with their known wishes. In the event of a dispute as to the nature of an OCN Citizen wish in respect of their Interest in OCN Land, then the matter shall be referred to Article 8 section of this Land Code.

Testamentary Interests
of non-OCN Citizens

- 34.4 A non-OCN Citizen, subject to the approval of Chief and Council, and subject to the provisions of any Land Law, may transfer their Interest in OCN Land by testamentary disposition of a legal will.

35. Limits on Mortgages and Seizures

Protections

- 35.1 In accordance with the with the *Framework Agreement*, Section 29, Section 87 and Subsections 89 (1) and (2) of the *Indian Act* continue to apply to OCN Land.

Mortgages consent

- 35.2 In accordance with Land Law a leasehold Interest may be subject to charge or mortgage.

36. Residency and Access Rights

Right for residence

- 36.1 The following individuals have a right to reside on OCN Land as long as they are not in breach of any other orders that may restrict them either by a Peace Order, the Court, Justice of the Peace, or Chief and Council:
- (a) OCN Citizens, who have been allocated a residential lot by way of entering into a land transaction, along with their spouses and children;
 - (b) any invitee of an OCN Citizen referred to in clause (a); and
 - (c) lessees and permittees, in accordance with the provisions of the instrument granting the lease or permit.

Right of Access

- 36.2 The following individuals have a right of access to OCN Land:
- (a) a lessee and his invitees;
 - (b) permittees and those granted a right of access under the permit;

Opaskwayak Cree Nation Land Code

- (c) OCN Citizens and their spouses and children;
- (d) a person who is authorized by a government body or any other public body, established by or under an enactment of OCN, parliament or the province to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey; or
- (e) a person authorized in writing by the Chief and Council.

Public access

36.3 Any individual may have access to OCN Land for any social, recreational, or business purposes, if:

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

Trespass

36.4 Any individual who resides on, enters or remains on OCN Land other than in accordance with a residence or access right under this *Land Code* is guilty of an offence.

Civil remedies

36.5 All civil remedies for trespass are preserved.

37. Spousal Interest Land Law

Rules and procedures

37.1 The Chief and Council enacted a Spousal Interest Land Law 2006/001 dated February 15, 2006, and which may be amended from time to time, that outlines the rules and procedures applicable on the breakdown of a marriage and/or relationship that affects lands, which includes but is not limited to:

- (a) the use and occupancy of OCN Land; and
- (b) the division of Interests in that land.

**PART 8
DISPUTE**

38. Purpose

Intent

38.1 The intent of this Part is to ensure that all Persons entitled to possess, reside upon, use or otherwise occupy OCN Land do so harmoniously with due respect to the rights of others and of OCN and with access to OCN procedures to resolve disputes.

Informal Discussions

38.2 OCN intends that wherever possible, a dispute in relation to OCN Land will be resolved through informal discussion by the parties to the dispute and nothing in this Part will be construed to limit the ability of any Person to reach an agreement to settle a dispute without recourse to this Part.

Staged Processes

38.3 OCN further intends that a dispute in relation to OCN Land that is not resolved by informal discussion will, except as otherwise provided progress in sequence through the following stages provided for in this Part:

- (a) facilitated discussions
- (b) an Appeal Panel; or
- (c) final option is court of competent jurisdiction.

Civil Remedies
Preserved

38.4 Nothing in this Part shall be construed to prevent a party to a dispute from, at any stage of dispute resolution, applying to have the dispute resolved in a court of competent jurisdiction.

Challenge to validity of law

38.5 Nothing in this Part shall be construed to prevent a party to a dispute from challenging the validity of a Land Law, but such challenge may be heard only in a court of competent jurisdiction.

39. Appeal Panel

Panel Established

39.1 Chief and Council shall establish an Appeal Panel when required.

Panel members

39.2 The Appeal Panel will be composed of a maximum of three (3) members, all of whom must be Eligible Voters, and who represent various elements of the community, including but not limited to elders, youth, Councillor, or person(s) recognized by the Chief and Council for their skills, integrity and wisdom.

Advisors or Mediators

39.3 The Council may appoint or contract with expert advisors, mediators, professionals or other Persons to assist in resolving disputes, if the Appeal Panel requests assistance.

40. Procedure to File an Appeal

Procedure to File

40.1 A Person who wishes to resolve a dispute with another Person or OCN in relation to the use or occupation of OCN Land may file a written notice of appeal with the Lands Division setting out:

- (a) the nature of the dispute or appeal;
- (b) the facts and supporting arguments upon which the Person filing the written notice of dispute relies; and
- (c) the relief that is sought.

Limitation Period

40.2 A written notice of dispute must be filed within thirty (30) days of the Person filing the written notice of dispute becoming aware of the decision, act or omission being disputed.

Opaskwayak Cree Nation Land Code

Who May File a Dispute

- 40.3 The following Persons may file a written notice of appeal under this Part if they are not in agreement with the Land Authority's decision:
- (a) an OCN Citizen who claims an Interest in OCN Land based on a documented Interest;
 - (b) a Person who has a dispute with another Person or with OCN in relation to the use or occupation of OCN Land;
 - (c) OCN when asserting an Interest in OCN Land; and
 - (d) OCN when disputing the use or occupation of OCN Land by a Person.

Appeal Panel not available

- 40.4 An Appeal Panel is not available under this Part for disputes in relation to:
- (a) administration or distribution of an estate;
 - (b) decisions relating to housing allocations; and
 - (c) decisions of Chief and Council to grant or refuse to grant an Interest or License in OCN Land.

Duty of Fairness

- 40.5 All Persons involved in a dispute under this Part must be:
- (a) treated fairly;
 - (b) given a full opportunity to present their case; and
 - (c) given reasons for a decision made under this Part.

Rules and Procedures

- 40.6 Chief and Council may prescribe such rules, policies, procedures, forms and reasonable fees not inconsistent with the *Land Code*, as may be necessary to give effect to this Part including but not limited to:

- (a) remuneration of facilitators, expert advisors, professionals or other Persons retained to assist in the resolution of disputes under this Part;
- (b) implementing recommendations of the Appeal Panel; and
- (c) any other matter necessary to give effect to this Part.

41. Facilitated Discussions

First stage Procedure

41.1 Within thirty (30) days of receiving a written notice of appeal under Section 40.1 the Land Manager will prepare and deliver a report on the dispute or appeal and a copy of the written notice of appeal to the Chief.

Notice of Dispute

41.2 As soon as practicable after receiving a report and written notice of appeal under Section 41.1 the Chief will present to Council to appoint OCN Citizens to sit on the Appeal Panel, those people appointed shall have no conflict of interest. The Appeal Panel will meet with the parties to resolve the dispute, through facilitated discussions.

Timing

41.3 In setting the date and time of the meeting referred to in Section 41.2 the Chair of the Appeal Panel or other person appointed, may consider any need to:

- (a) obtain further information;
- (b) give notice of the dispute to others who have or may have an Interest in it;
or
- (c) obtain professional advice in relation to the dispute.

Decision-making authority

41.4 The Appeal Panel may, after hearing a dispute:

- (a) confirm in whole or in part the decision which is the subject of the dispute;

- (b) reverse in whole or in part the decision which is the subject of the dispute;
- (c) substitute its own decision for the decision in dispute;
- (d) direct that an action be taken or ceased;
- (e) refer the subject of the dispute for reconsideration by the decision maker;
or
- (f) make an order to give effect to its decision, including any necessary order for the survey of an Interest in OCN Land, the registration of an Interest in OCN Land, and the allocation of the costs of any incidental measures to be taken to give effect to such an order.

Decisions in writing

41.5 Decisions of the Appeal Panel will be in writing.

Decisions Final
And Binding

41.6 A decision of the Appeal Panel, unless appealed to a court of competent jurisdiction within thirty (30) days, shall be final and binding.

Improper influence

41.7 Any attempt by a person who has filed a notice of appeal with the Appeal Panel to improperly influence a decision of the Appeal Panel will, in addition to any other remedies which may be available, result in the termination of proceedings under this Part and the matter being disputed will remain in effect as originally decided.

42. Repealed

43. Repealed

44. Repealed

45. Repealed

PART 9
TRADITIONAL UNREGISTERED OR UNDOCUMENTED INTERESTS

46. Traditional Interest Claim

Filing claim

46.1 An OCN Citizen who claims an interest in OCN Land which is unregistered or undocumented, may file a written claim to the Land Authority setting out the basis for the claim, including but not limited to:

- (a) the facts upon which the claim is based;
- (b) the evidence available in support of the claim; and
- (c) the relief that is sought.

Assistance to
OCN Citizen

46.2 The Lands Division staff may assist an OCN Citizen in preparing and filing a written claim under Section 46.

No time limit

46.3 An OCN Citizen may file a claim under Section 46 at any time.

Preparation of report

46.4 Within sixty (60) days of receipt of a claim under Section 46, the Land Authority will cause to be prepared a report on the claim.

Additional information

46.5 In addition to any other information, a report prepared under Section 46.4 will identify:

- (a) any other individuals who may supply relevant information pertaining to the claim; and
- (b) any other individuals who may be affected by the claim.

Opaskwayak Cree Nation Land Code

Elders Hearing

- 46.6 If, after reviewing a report prepared under Section 46.4, the Land Authority is unable to approve a claim, it will request that Chief and Council convene a panel of three (3) elders to hear and consider:
- (a) the claim;
 - (b) the report on the claims;
 - (c) any evidence with respect to the claim; and
 - (d) the relief being sought.

Giving Merit

- 46.7 Following a hearing under Section 46.6, the panel of elders will decide by majority vote whether the claim has merit.

Unanimous decision

- 46.8 A unanimous decision of the panel of elders is required for a determination that a claim has no merit.

Giving effect to decision

- 46.9 Where the panel of elders determine that a claim is valid, Chief and Council will, in accordance with this *Land Code*, take such steps as are necessary to give effect to that determination provided that, where it is inequitable or unjust in all the circumstances to perfect the claim, Chief and Council may substitute another interest in OCN Land of equivalent area or value.

Dispute Resolution

- 46.10 An OCN Citizen who disputes a decision of the panel of elders or an action of Chief and Council or a Person affected by such decision or action may proceed to dispute resolution in accordance with Part 8 of this *Land Code*.

**PART 10
OTHER MATTERS**

47. Liability

Liability Coverage

47.1 The Chief and Council shall arrange, maintain and pay, out of the transfer payments received from Canada, insurance coverage for OCN, the Land Authority and its Land Authority Members and lands staff engaged in carrying out any matter related to OCN Land to indemnify them against personal liability arising from the performance of those duties.

Extent of Coverage

47.2 The extent of the insurance coverage shall be determined by the Chief and Council.

Civil Proceedings only

47.3 For greater certainty, the Land Authority's indemnification under Section 47.1 relates to civil proceedings only, and not to the prosecution of an offence under a Land Law or under criminal law.

48. Offences

Application of the
Criminal Code

48.1 Unless some other procedure is provided for by a Land Law, the summary conviction procedures of Part XXVII of the *Criminal Code*, as amended from time to time, apply to offences under this Land Code or under a Land Law.

49. Amendments to Land Code

Technical amendments

49.1 Technical amendments to this Land Code may be made without a Ratification Vote, provided the OCN Citizens are advised of those technical amendments and the technical amendments are available for inspection at the Land Division and administration offices of OCN.

Community Approval

49.2 All amendments to this *Land Code* other than technical amendments must receive community approval by Ratification Vote to be effective.

50. Commencement

Effective

50.1 This *Land Code* is effective August 1, 2002, along with amendment made to it from time to time.

Certification

50.2 Subject to Section 50.1 The certification of this *Land Code* by the verifier was confirmed on July 5, 2002.