



Nisichawayasihk Cree Nation Laws

Nisichawayasi Aski Pumenikewin

(LAND CODE)

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Certified a true copy
this 4th day of July, 2017
Catherine McGowan
A Commissioner for taking Affidavits within British Columbia

June 27, 2017

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[Signature]

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PREAMBLE

Whereas the *Nisichawayasi Nehethowuk* live according to the *Kihche'othasowewin* (the Great Law) which forms the basis for our spiritual and philosophical beliefs, values, principles and goals and from this Great Law, our people developed customary law principles (also known as traditional laws) to define our rights and responsibilities;

Whereas, the *Nisichawayasi Asiniskaw Nehethowuk*, are the people whose ancestors were *Asiniskaw Ethiniwuk* who lived near where the Three Rivers meet and many *Nisichawayasi Nehethowuk* still live within these traditional lands,

Our customary laws are based on *mamawi nisitawenachikewin* (mutual recognition), *mamawi kistithichikewi* (mutual respect), *mamawi wechihitowin* (sharing), and *mamawi tipethimisowin kanawapatamasowin* (mutual responsibility) with all relations in *tapwetamowinihk* (honesty, truth, trust and understanding) within *N'tuskenan*;

Whereas the *Nisichawayasi Nehethowuk* has had a profound relationship with *N'tuskenan* (our land) from *Kihche'Othasowewin Mechemahch'ohche* (since the beginning of time) as *Aski* (land) is recognized as a sacred gift from *Kehchi Manitou* (the Creator) to be used for the collective benefit of the *Nisichawayasi Nehethowuk*;

Whereas in accordance with our customary law, *Aski Kanache Pumenikewin*, we have a sacred duty to protect *N'tuskenan* (our land) and keep it safe for future generations;

Whereas the vision statement of the *Nisichawayasi Nehethowuk* is "to exercise sovereignty that sustains a prosperous socio-economic future for the Nisichawayasihk Cree Nation" and we believe developing our own laws, such as this *Aski Pumenikewin* (Land Code) is consistent with our traditional practices and our inherent right to govern ourselves;



Whereas the Nisichawayasihk Cree Nation became a signatory to the Framework Agreement on First Nation Land Management by signing an Adhesion with Canada on March 3, 2014;

THEREFORE, THIS *NISICHAWAYASI ASKI PUMENIKEWIN* by and with the advice of the citizens of the Nisichawayasihk Cree Nation is enacted as follows:

PART 1

PRELIMINARY MATTERS

1.0 Title

Title

1.1 The title of this enactment is the *Nisichawayasi Aski Pumenikewin (NCN Land Code)*.

2.0 Interpretation

Definitions

2.1 The following definitions apply in this *Aski Pumenikewin*:

“**Administrative Order**” means a decision made by an employee of *Nisichawayasi Nehethowuk Okimawin* or a Special Operating Agency where such authority has been delegated by Chief and Council in accordance with this *Aski Pumenikewin* or a Land Law.

“**Chief and Council**” means the Chief and Councillors elected as the governing body of NCN in accordance with the Election Law 1998-E1, as amended.

“**Community Input**” means the methods Chief and Council may use to consult with or obtain input from, NCN Citizens before making a decision by Council Resolution, which methods, may include but are not limited to a show of hands, traditional voting methods, secret ballot vote at a meeting or more generally or any other method NCN uses to encourage dialogue and obtain input.

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“**Community Ratification Process**” means the NCN document approved by Council Resolution that sets out the procedures for conducting a vote to approve or reject the *Nisichawayasi Aski Pumenikewin* (land code) and the Individual Agreement.

“**Council Resolution**” means a resolution or motion approved by Chief and Council at a duly convened meeting.

“**First Nations 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 February 12, 1996, as amended and includes the Adhesion thereto signed by NCN and Canada on March 3, 2014.

“**General Assembly**” means a meeting of NCN Citizens convened by Chief and Council.

“**General Assembly Notice**” means a notice that specifies the date, time and place of a General Assembly and includes a brief description of the matters to be discussed and decided at the General Assembly.

“**Immediate Family**” means a person’s spouse, biological or adoptive parent, sister, brother, child, grandparent, grandchild, aunt, uncle or first cousin.

“**Individual Agreement**” means the Individual Transfer Agreement made between NCN and Canada.

“**Interest**” means any interest, right or estate of any nature in or to NCN Lands, including a Lease, easement, right of way, servitude (the right of a benefit over the beneficial use of the land

owned by another) or profit a prendre (the right of a person to use or share land owned by another), but does not include title to that land.

“Lands Advisory Committee” means the committee established pursuant to Article 15 to provide advice to Chief and Council about land matters.

“Lands Tribunal” means the dispute resolution tribunal established pursuant to Article 21 to adjudicate disputes related to NCN Lands.

“Land Resolution” means a Council Resolution made pursuant to this *Aski Pumenikewin* (Land Code) or a Land Law to approve the granting of an Interest, License, Permit or Mortgage.

“Land Law” means, without limiting the generality of the foregoing, a law respecting the development, conservation, environmental assessment and protection, management, use and possession of NCN Lands or Resources and any matter necessary or related thereto, enacted pursuant to *Aski Pumenikewin* (Land Code) or any *Othasowewin* (NCN Constitution).

“Lease” means a written contract that sets out the specified time period and conditions of a right to use and possession of NCN Lands.

“Licence” means any right of use or occupation of NCN Lands other than an Interest in that land.

“Mortgage” means property that is conveyed (transfer of title of land from one to another) or pledged (using land as security for a loan) as security for the payment of debt to the lender or creditor.

“NFA Compensation Lands” means those lands which form part of the NCN 1996 NFA Implementation Agreement which have not yet been transferred from Manitoba to Canada and designated as reserve lands.



"Nisichawayasi Aski Pumenikewin" or **"Aski Pumenikewin"** means this NCN Land Code approved by Ratification Vote in accordance with Article 9.2.

"Nisichawayasihk Cree Nation" or **"NCN"** means the *Nisichawayasi Nehethowuk*, the people who live where the Three Rivers meet and whose ancestors were *Asiniskaw Ethiniwuk*.

"Nisichawayasi Nehethowuk Okimawin" means the NCN government.

"NCN Citizen" means a person who is considered to be *Nisichawayasi Nehethowuk* pursuant to any NCN citizenship law and includes any person who was considered a member of NCN pursuant to the NCN membership code dated May 24, 1988 including any amendments thereto;

"NCN Lands" means any portion of the reserve lands described in Article 5 and includes without limitation all rights Resources related to those lands including the water, beds underlying water, and Riparian Rights.

"NCN Lands Registry" means the system for registering NCN Lands and Interests, Leases, Licenses, Mortgages, and Permits, and Resources related to such lands.

"NCN Law" means a law enacted by Chief and Council and includes but is not limited to Land Laws.

"Othasowewin" means any NCN constitution approved by NCN Citizens before or after the coming into force of this *Aski Pumenikewin* (land code).

"Onuwosonekew" (voters) means an NCN Citizen who is at least eighteen (18) years of age on the date of any vote required by this *Aski Pumenikewin* (land code).

“**Permit**” means giving *Tawinamakewin* (formal consent) to allow the use or access to NCN Lands for specified purposes.

“**Proposal**” means a written proposal in a prescribed form to develop an NCN Law.

“**Ratification Vote**” means a vote of *Onuwosonekew* (voters) under Article 9.2.

“**Resources**” means any materials or substances on, above or under NCN Lands in their natural state including but not limited to mines and minerals.

“**Riparian Rights**” means the legal rights of owners of land that borders on a river or other body of water and also, rights that pertain to the use of the water.

“**Special Operating Agency**” means an entity established by an operating charter and management agreement approved by Council Resolution or an NCN Law.

“**TLE Lands**” means the lands NCN has chosen or has the right to choose in accordance with the Treaty Land Entitlement Framework Agreement dated May 29, 1997 and the NCN Treaty Entitlement Agreement dated July 30, 1998.

Paramountcy

2.1 If there is an inconsistency between this *Aski Pumenikewin* (land code) and any Land Law, Land Resolution or Administrative Order this *Aski Pumenikewin* (land code) prevails to the extent of the inconsistency. Laws of Canada and Manitoba shall continue to apply to *Nisichawayasi Nehethowuk* and its lands unless replaced by an NCN Law. Where there is a conflict between an NCN Law and the laws of Canada or Manitoba the NCN Law shall prevail subject to contrary paramountcy rules established by agreement.

Culture and Traditions

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- 2.2 Customary law principles based upon the oral teachings of NCN's ancestors shall be used in administering this *Aski Pumenikewin* (land code).

Language

- 2.3 As preservation of culture and language is of paramount importance to NCN, *Nehethowewin* (Our Language) and English shall be used equally to interpret, clarify or apply the meaning of any provision of this *Aski Pumenikewin* (land code).

Non-abrogation

- 2.4 NCN's signing of the Adhesion to the Framework Agreement and the development of this *Aski Pumenikewin* (land code) do not abrogate or derogate from any Aboriginal, Treaty or other rights or freedoms of NCN or NCN Citizens including NCN's sovereign right to govern itself recognized by international law including the UN Declaration on the Rights of Indigenous Peoples.

Fiduciary Relationship

- 2.5 This *Aski Pumenikewin* (land code) does not abrogate the special fiduciary relationship between Her Majesty the Queen in right of Canada and NCN and NCN Citizens.

Days

- 2.6 Any reference to "days" in this *Aski Pumenikewin* (land code) shall mean calendar days.

Number of Days

- 2.7 Where there is a reference to a number of days between two events, in calculating the number of days, the day on which the first event occurs shall be excluded and the day on which the second event happens shall be included.

Plural

- 2.8 Words in the singular include the plural and words in the plural include the singular.

Weekends or Holidays

2.9 Where the time limited for the doing of an act expires or falls on a Saturday or Sunday or a federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday.

Regular Business Hours

2.10 Where the time limited for the doing of an act in the *Nisichawayasi Nehethowuk Okimawin* (NCN Government) administration building falls on a day when the office is not open during regular business hours, the act may be done on the next day that the office is open.

3.0 Authority to Govern

Origin of Authority

3.1 The traditional teachings of the Nisichawayasihk Cree Nation speak of the obligation of the *Nisichawayasi Nehethowuk* to care for and respect the land and the gifts of *Kehchi 'Manitou* from the land.

Flow of Authority

3.2 *Kehchi' Manitou* (Creator), through *Kehchi Othasowewin* (the Great Law), granted NCN as the guardians of *N'tuskenan* (our land), the responsibility to care for it and the right to use and benefit from its resources so the authority of NCN to govern its lands and resources flows from *Kehchi' Manitou* (the Creator) through *Aski* (the land) to NCN Citizens, and from NCN Citizens to Chief and Council according to *Nisichawayasi Nehethowuk* culture, traditions, customs and laws.

Aski Pumenikewin

3.3 By enacting this *Aski Pumenikewin* (land code) NCN is asserting *Tipethimisowin* (sovereignty) in accordance with its sacred duty to honour and protect *N'tuskenan* (our lands) for *Nisichawayasi Nehethowuk* now and seven generations from now forever.

4.0 Purpose

Purpose

4.1 The purpose of this *Aski Pumenikewin* (land code) is to set out the principles and administrative structures applicable to the administration and management of NCN Lands and Resources consistent with the *Framework Agreement* and the *First Nations Land Management Act*.

Not Fee Simple Lands

4.2 Administration and management of the NCN Lands described in section 5.0 will not create fee simple title to such NCN Lands.

5.0 Description of Nisichawayasihk Cree Nation Lands

NCN Lands

5.1 The NCN Lands that are subject to this *Aski Pumenikewin* (land code) are those lands more fully described in the Individual Agreement including:

IR 170

Total Lands containing 1860 hectares, (4596 acres) more or less.

IR 170 A

Total Lands containing 1161 hectares, (2870 acres) more or less.

IR 170 B

Total Lands containing 1870 hectares, (6985 acres) more or less.

IR 170 C

Total Lands containing 3.24 hectares, (8 acres) more or less.

Kapawasihk

Total Lands containing 1870 hectares, (4621 acres) more or less.

Thi Thi Kope (Mile 20 second revision)

Total Lands containing 404 hectares, (1000 acres) more or less.

Monahawuhkun

Total Lands containing 399 hectares, (986 acres) more or less.

Pithio Wapow (Mystery Lake Hotel)

Total Lands containing 1.7 hectares, (4.2 acres) more or less.

Numaykoos Sakaheykun

Total Lands containing 3526 hectares, (8713 acres) more or less.

Odei River

Total Lands containing 1371 hectares, (3388 acres) more or less.

Opekanowi Sakheykun

Total Lands containing 798 hectares, (1972 acres) more or less.

Opekunosakakanihk

Total Lands containing 707 hectares, (1747 acres) more or less.

Suwanee Lake

Total Lands containing 1621 hectares, (4005 acres) more or less.

Wapasihk

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Total Lands containing 1451 hectares, (3586 acres) more or less.

Wapikunno Bay

Total Lands containing 1796 hectares, (4438 acres) more or less.

Wapisu

Total Lands containing 1842 hectares, (4551 acres) more or less.

Wuskwi Sakheykun

Total Lands containing 919 hectares, (2270 acres) more or less.

Wuskwi Sipi

Total Lands containing 803 hectares, (1984 acres) more or less.

NFA Compensation Lands

5.2 For greater certainty, the NFA Compensation Lands will be added to the Individual Agreement and they shall then be subject to this *Aski Pumenikewin* (land code).

TLE Lands

5.3 For greater certainty, the TLE Lands will also be added to the Individual Agreement and they shall then be subject to this *Aski Pumenikewin* (land code).

Additional Lands

5.4 All additional lands approved by Council Resolution that are set apart as reserve lands for the exclusive use and benefit of NCN after this *Aski Pumenikewin* (land code) comes into effect shall be included in the Individual Agreement which shall be amended from time to time. Upon inclusion in the Individual Agreement the additional lands set apart as reserve lands shall also be subject to this *Aski Pumenikewin* (land code) Chief and Council shall

decide when Community Input is required in accordance with NCN practices and how Community Input about the inclusion of such additional lands shall be obtained.

Procedure for Aski Pumenikewin To Apply to Future Lands

5.5 For greater certainty, once the parties have amended the Individual Agreement to include additional reserve lands, no amendment of this *Aski Pumenikewin* (land code) is necessary for it to apply to such lands.

PART 2

NCN LAWS

6.0 Land Management Functions and Law-Making Powers

Land Management Functions

6.1 Land management involves the development of laws and policies for the governance, protection, use, finance, administration, enforcement and resolution of disputes related to lands and Resources.

Council May Make Laws

6.2 Chief and Council may make Land Laws in accordance with this *Aski Pumenikewin* (land code), any *Othasowewin* (Constitution) and any other law that gives Chief and Council the authority to do so. Without limiting the generality of the foregoing, such Land Laws may include the following:

- (a) protection and development of NCN Lands;
- (b) zoning and sub-division including prohibitions on zoning and sub-divisions;
- (c) creation of interests or rights in NCN Lands and Resources;
- (d) environmental assessment and protection;
- (e) provision of services;
- (f) establishment of user fees and royalties for the use of NCN Lands, Resources and the provision of services;

- (g) enforcement;
- (h) dispute resolution; and
- (i) protection of heritage resources.

7.0 Law Making Procedures

Initiating Laws

7.1 Land Laws shall be initiated by a Proposal presented to Chief and Council by a member of Chief and Council, an employee of *Nisichawayasi Nehethowuk Okimawin* (NCN Government) with responsibility for Lands and Resources, the Land Advisory Committee or at least 5% of *Onuwosonekewuk* (voters) on the list maintained by NCN's electoral officer.

First Procedural Steps

7.2 Upon receipt of a Proposal, Chief and Council shall consider the Proposal within thirty (30) days and decide whether to pass a Council Resolution to have a draft Land Law prepared which Land Law shall then be considered at a meeting of Chief and Council within six months unless there are extenuating circumstances which require a longer period of time for the Land Law to be prepared.

Chief and Council's Review of Proposed Law

7.3 After considering the proposed Land Law, Chief and Council shall by Council Resolution:

- (a) direct that the Land Law be referred to a General Assembly to obtain input from NCN Citizens;
- (b) reject the draft Land Law; or
- (c) request further work be done on the draft Land Law and have it re-tabled with Chief and Council within six months.

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Request for Written Reasons if Proposed Law Rejected

7.4 Within fourteen (14) days of rejection of a proposed Land Law, the Land Advisory Committee or any NCN Citizen who was a sponsor of the proposed Land Law, may request that Chief and Council provide a written explanation for rejection of the proposed Land Law and Chief and Council shall provide a written explanation for having rejected the draft Land Law within thirty (30) days of receipt of the request.

Referral to General Assembly

7.5 Subject to Article 7.6, where Chief and Council directs that the Land Law be referred to the General Assembly, it shall refer the matter to the next scheduled meeting of the General Assembly to obtain advice regarding the proposed Land Law or if a General Assembly has not yet, been scheduled, arrange for it to be scheduled within the next sixty (60) days.

Workshops

7.6 Chief and Council may direct an employee of *Nisichawayasi Nehethowuk Okimawin* (NCN government) or the Land Advisory Committee to hold workshops about a proposed Land Law before referring the matter to a General Assembly, in which case the date for holding the General Assembly to discuss the Land Law may be extended by up to sixty (60) days from the scheduled date or up to one hundred and twenty (120) days where a General Assembly has not yet been scheduled.

Reports

7.7 A report on workshop discussions and the deliberations of the General Assembly shall be prepared by the employee or the Land Advisory Committee as directed by Chief and Council and tabled at the next regular meeting of Chief and Council.

Second Review by Chief and Council

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- 7.8 Chief and Council shall consider the proposed Land Law, including the report of the employee or Land Advisory Committee and shall decide by Council Resolution whether to accept, modify, reject or refer the Land Law to the Land Advisory Committee or any other special committee comprised of NCN Citizens for further consideration and revision.

Committee Report

- 7.9 In the event that the proposed Land Law is referred to the Land Advisory Committee or another special committee, the Land Advisory Committee or special committee shall deliberate and report back to Chief and Council within thirty (30) days with a recommendation to accept the proposed Land Law, with or without amendments or to reject it.

Effective Date of Law

- 7.10 If approved by Council Resolution a Land Law shall come into effect within thirty (30) days of the date of the Council Resolution unless the Land Law sets out an alternative effective date.

Signing Laws

- 7.11 Following enactment by Chief and Council, the Land Law shall be signed by Chief and Council and filed with the NCN's CEO or designate and the First Nations Gazette.

Public Access to Laws

- 7.12 Copies of proposed and final approved Land Laws shall be posted on the NCN website and shall be provided to NCN Citizens or other people upon request subject to payment of any fees set by Chief and Council for providing copies of the Land Laws.

Amending or Repealing Laws

- 7.13 Land Laws may be repealed or amended in accordance with the procedures set out in this *Aski Pumenikewin* (land code) or any *Othasowewin* (constitution).

8.0 NCN Laws on Emergent Issues

Public Health, Safety and Prevention Criminal Activity

- 8.1 Notwithstanding Article 7, Chief and Council may enact an NCN Law, including any Land Law, without following the law-making procedures if Chief and Council decides that an NCN Law is urgently required for reasons of public health or safety or to stop or prevent criminal activity on or adjacent to NCN Lands.

PART 3

COMMUNITY APPROVALS

9.0 Nuskowomowin

Community Input

- 9.1 Every NCN Citizen is entitled to attend and participate in General Assemblies in accordance with the rules of procedure established for such community meetings. Subject to Article 9.2, prior to making a decision, Chief and Council shall seek Community Input at a General Assembly about the following matters:

- (a) any grant or disposition, or a renewal of a grant or disposition, of an Interest or Licence to a commercial entity or a person who is not an NCN Citizen in NCN Lands exceeding a term of ninety-nine (99) years;
- (b) any grant or disposition of Resources or a renewal of a grant of Resources exceeding a term of 5 years;
- (c) approval of a charge or Mortgage of a leasehold interest exceeding a term of twenty-five (25) years; and
- (e) any matter related to land use planning, granting an Interest, Licence, Permit, Mortgage or any other right in relation to NCN Lands where a Land Law requires *Nuskomowin* (community discussion and approval) before approving the Interest, Licence, Permit, Mortgage or other right.

Utility Permits

9.2 Chief and Council may in accordance with a Land Law grant a right of way or permit in NCN Lands for telecommunication, water, electricity, gas, sewer or other like utility purposes and related purposes without first obtaining Community Input.

Quorum

9.3 If Chief and Council determines that Community Input will be obtained by holding a secret ballot vote, Chief and Council shall by Council Resolution establish the quorum for participation in the vote and shall request the NCN Electoral Officer appointed under the Election Law, 1998 E-1 to conduct the vote.

Ratification Votes

9.4 A Ratification Vote shall be held to decide whether to:

- (a) approve a community expropriation law as referred to in Article 10;
 - (b) approve a voluntary exchange of NCN Lands as referred to in Article 12;
 - (c) and
- approve any other matter where a Council Resolution or a Land Law requires a Ratification Vote.

Additional Votes

9.5 Chief and Council may decide it wishes NCN Citizens to vote at a General Assembly or by Ratification Vote on an issue before Chief and Council makes a decision.

General Assembly Notices

9.6 At least twenty-one (21) days before the General Assembly, a General Assembly Notice shall be posted on NCN Lands and NCN's website unless Chief and Council decide notice shall be given using reasonable alternative means.

Who May Attend

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- 9.7 All NCN Citizens have the right and responsibility to attend a General Assembly to participate in discussion and decision-making processes, but other persons may attend with the permission of Chief and Council.

Other General Assemblies

- 9.8 Council and Council may schedule more than one General Assembly or workshop to discuss and obtain input on a matter before making a decision that requires input at a General Assembly.

Ratification Vote Procedures

- 9.9 Any ratification vote required under this *Aski Pumenikewin* (land code) shall be conducted by the NCN Electoral Officer using substantially the same procedures as those in the Election Law, 1998-E1, as amended.

No Verifier

- 9.10 A verifier is not needed for any ratification vote but the NCN Electoral Officer may appoint observers in accordance with NCN's voting practices.

Ratification Vote Approvals

- 9.11 A matter shall be considered approved by a ratification vote if a majority of *Onuwosonekew* (voters) who cast a vote, vote in favour of the matter unless Chief and Council decides by Council Resolution a higher threshold is required.

PART 4

PROTECTION OF LAND AND COMMUNITY INTERESTS

10.0 Expropriation for Community Purposes

Expropriation Generally

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- 10.1 A right or an Interest in NCN Lands, or in any building or other structure on those lands, may only be expropriated by NCN in accordance with the *Framework Agreement* and any Land Law enacted for such purposes.

Community Purposes

- 10.2 Expropriation may take place for NCN community works or other purposes including but not limited to the building of community infrastructure or the pursuit of community economic development opportunities.

Expropriation Laws

- 10.3 Before expropriating any lands, Chief and Council shall enact NCN Laws respecting:

- (a) the taking of possession of the right or interest;
- (b) the compulsory taking of possession of the right or Interest;
- (c) transfer of the right or Interest or Licence;
- (d) notice of expropriation and service of the notice of expropriation;
- (e) entitlement to compensation;
- (f) determination of the amount of compensation;
- (g) the method of payment of compensation; and
- (h) a mechanism for resolution of expropriation disputes.

Rights That May Not Be Expropriated

- 10.4 In accordance with section 17.6 of the Framework Agreement certain interests of Canada cannot be expropriated by NCN.

Acquisition by Mutual Agreement

- 10.5 NCN's right to expropriate can only be exercised after good faith efforts to acquire, by mutual agreement, the right or Interest in NCN Lands.

Compensation for Rights and Interests

10.6 NCN shall, in accordance with its Land Laws and the *Framework Agreement*, give fair compensation for expropriation of rights or Interests in NCN Lands.

Arbitration to Resolve Expropriation Disputes

10.7 The resolution of expropriation disputes shall be determined by the Lands Tribunal.

11.0 Heritage Sites

Community Approval Development on Heritage Sites

11.1 No development shall be allowed on any site designated as a heritage site by Chief and Council in accordance with *Aniskowatesewe Kanache Pumenikewin* (sacred responsibility to protect heritage resources) and *Kanatethechikewin* (sacred responsibility to ensure our ancestors and things they used on Earth are respected).

12.0 Meskotonamakewin (Land Exchanges)

Conditions for Meskotonamakewin (Land Exchange)

12.1 NCN may agree with another party to exchange a parcel of NCN Lands for a parcel of land from that other party in accordance with this *Aski Pumenikewin* (land code) and the *Framework Agreement*.

No Effect

12.2 A *meskotonamakewin* (land exchange) has no force and effect unless it receives community approval by a ratification vote.

Land to Be Received

12.3 No *meskotonamakewin* (land exchange) may occur unless the land to be received in the exchange:

- (a) Is equal to or greater than the area of the NCN Lands to be exchanged;

- (b) Is comparable to the appraised value of the NCN Lands; and
- (c) Canada has confirmed it will become a reserve and become NCN Lands subject to this *Aski Pumenikewin* (land code).

Negotiators

12.4 The persons who will have authority to negotiate a *meskotonamakewin* (land exchange) agreement on behalf of NCN must be designated by Council Resolution.

Additional Compensation

12.5 NCN may negotiate other compensation of value to NCN, such as money or one or more other parcels of land, in addition to the exchange parcel which is intended to become a reserve. Such other parcels of land may be held by NCN or a trustee in fee simple or some other manner.

Federal Consent

12.6 Before NCN concludes a *meskotonamakewin* (land exchange) agreement, it must receive a written confirmation from Canada that Canada will:

- (a) 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 specified in the Council Resolution or as provided in an agreement with Canada; and
- (b) accept the manner and form of the exchange as set out in the exchange agreement.

Community Notice

12.7 Once negotiations on the *meskotonamakewin* (land exchange) agreement are concluded, Chief and Council shall provide the following information to *Onuwosonekew* (voters) at least twenty-one (21) days before the vote:

- (a) a description of the NCN Lands to be exchanged;

- (b) a description of the land to be received in the exchange;
- (c) a description of any other compensation to be exchanged; Chief
- (d) a report of a certified land appraiser setting out that the conditions in section 17.3 have been met;
- (e) a copy or summary of the *meskotonamakewin* (land exchange) agreement; and
- (f) a copy of the written confirmation from Canada referred to in section 12.6

Process of Land Exchange

12.8 The *meskotonamakewin* (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) Chief and Council must pass a Council Resolution authorizing Canada to transfer title to the NCN Lands being exchanged, in accordance with the exchange agreement; and
- (c) a copy of the instruments transferring title to the relevant parcels of land must be registered in the NCN Lands Register.

PART 5

ACCOUNTABILITY

13.0 FINANCIAL ACCOUNTABILITY

Consolidated Financial Statements

- 13.1 Chief and Council causes consolidated financial statements to be prepared annually in accordance with generally accepted accounting principles as they are amended from time to time.

NCN Budgets

- 13.2 Chief and Council approves annual budgets for all of its operations including land management by Council Resolution, and may during a fiscal year approve changes to those budgets if it considers it necessary for the fiscal health and accountability of an individual program or NCN overall.

NCN Treasury Board

- 13.3 The *soneyeowe puminekwuk* (treasury board) appointed by Chief and Council review and recommend any proposed changes in budgetary expenditures to Chief and Council on a regular basis throughout the fiscal year and land management matters are included in, and will continue to be included in that process.

Annual Audits

- 13.4 The independent auditor appointed by Chief and Council to audit its consolidated financial statements in accordance with generally accepted auditing standards of the Canadian Institute of Chartered Accountants, which audit shall include land management revenues and expenditures.

Access to Audits and other Information

- 13.5 NCN's annual audits shall be reviewed at a General Assembly and be available to NCN Citizens upon request. NCN Citizens shall also have access to the NCN Lands Registry during normal business hours. Chief and Council may establish reasonable fees for reviewing and obtaining such information.

Lands Revenues and Expenditures

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13.6 All NCN Lands revenues and expenditures will be included in the annual consolidated financial statements and will be audited in accordance with any NCN laws and policies.

14.0 Conflict of Interest

Conflict Procedures

14.1 Members of Chief and Council, the Land Advisory Committee, the Lands Tribunal and any employee of *Nisichawayasi Nehethowuk Okimawin* (NCN government) or a Special Operating Agency shall avoid conflicts of interest involving Immediate Family Members, by:

- (a) disclosing any business interests held or divested prior to taking office or being appointed and the arrangements made for the management of such business interests while holding office;
- (b) disclosing any personal interest, the person may have in relation to an issue under discussion;
- (c) leaving any meeting or not participating in any decision-making process where the person has a potential or actual conflict of interest;
- (d) taking no steps to influence the actions or decisions of any other persons in relation to a matter that the person has declared a potential or actual conflict of interest; and
- (e) request that the minutes of any meeting record any disclosure of a conflict of interest by the person in relation to the land issue.

Common Interests

14.2 Section 14.1 does not apply to an interest that is held by an NCN Citizen in common with every other NCN Citizen.

PART 6

LAND AND RESOURCES ADMINISTRATION

15.0 Delegation of Authority

Administrative Functions

15.1 Chief and Council may delegate duty or responsibility of Chief and Council under this *Aski Pumenikewin* (land code) or a Land Law to an employee of *Nisichawayasi Nehethowuk Okimawin* (NCN government), the Lands Advisory Committee or a Special Operating Agency except the duty to make NCN Laws or establish the amount of any fee, rent or royalty payable.

16.0 Lands Advisory Committee

Establishment Lands Advisory Committee

16.1 Chief and Council may appoint a Lands Advisory Committee to advise it on land matters.

Composition and Qualifications

16.2 The Lands Advisory Committee shall be comprised of five (5) *Onuwosonekew* (voters), and shall include one *Kehtiyatis* (Elder), and one *Oskatis* (Youth) as defined in the Election Law, 1998-E1, as amended. A majority of those persons appointed to the Lands Advisory Committee shall have knowledge and experience related to lands, resources, administration or finances. A member of Chief and Council shall be appointed as an ex-officio member of the committee.

Eligibility

16.3 Any *Onuwosonekew* (voter) whether resident on or off NCN Lands is eligible for appointment to the Lands Advisory Committee, except for the following persons:

- (a) any person convicted of an indictable offence in the past eight (8) years;
- (b) any person convicted of a corrupt practice in connection with accepting a bribe, dishonesty or wrongful conduct under the Election Law, 1998-E1 or any other applicable law;
- (c) any person banned by Council Resolution from entering or having access to NCN Lands; and

- (d) any person declared to be mentally incompetent by a court of competent jurisdiction in Canada or elsewhere.

Term of Appointment

16.4 Three persons shall initially be appointed for a term of four (4) years and two persons for a term of two (2) years, and after the first appointments all appointments shall be for a term of four (4) years.

Vacancies

16.5 Where a member of the Lands Advisory Committee

- (a) is unable or unwilling to act;
- (b) *Kanukutuskeet* (passes on);
- (c) resigns from office in writing;
- (d) fails to attend three (3) consecutive meetings without reasonable excuse as determined by Chief and Council;
- (e) fails to disclose a conflict of interest;
- (f) is found to have committed a corrupt practice during an NCN election;
- (g) is convicted of an indictable offence or is sentenced to serve a jail term after appointment; or
- (h) is no longer an NCN Citizen,

that person's position shall be declared vacant and Chief and Council shall appoint a new person to fill the vacancy for the remainder of the term of the member of the Lands Advisory Committee that the person is replacing.

Duties

16.6 Chief and Council shall by Council Resolution establish the duties of the Lands Advisory Committee and the procedures to be followed by the committee in carrying out its duties provided they are not inconsistent with this *Aski Pumenikewin* (land code) or any other Land Law, which duties may include:

- (a) advising Chief and Council and the public service on matters respecting the administration of NCN Lands and Resources;
- (b) the development of Land Laws, Land Resolutions, and relevant policies and practices;
- (c) holding meetings with NCN Citizens about land issues;
- (d) make recommendations about fees to be charged for the right to use NCN Lands and Resources; and
- (e) any other duties assigned by Council Resolution.

Internal Procedures

16.7 The Lands Advisory Committee may establish rules of procedure for its meetings and carrying out its duties as long as such procedures are not inconsistent with those established by the Chief and Council pursuant to Article 15.5.

17.0 Lands Advisory Committee Chairperson

Chairperson

17.1 Chief and Council shall designate one of the persons appointed in accordance with Article 15.1 as the chairperson of the Lands Advisory Committee. Upon the expiry of the person's term of office, Chief and Council shall designate a new chairperson from among the members of the Lands Advisory Committee. The Chairperson will only exercise a vote in the event that a consensus cannot be reached by the Lands Advisory Committee.

Alternate Chairperson

17.2 If the Chairperson is unable to perform the functions of office, either temporarily or on a long-term basis, Chief and Council shall appoint one of the other Lands Advisory Committee members to assume the responsibilities of the Chairperson.

Functions of Chairperson

17.3 The functions of the Chairperson include:

- (a) calling and chairing duly convened meetings;
- (b) submitting Land Advisory Committee recommendations to Chief and Council about land matters, including the development of Land Laws;
- (c) performing such other duties as may, from time to time, be assigned by resolution of the Lands Advisory Committee or Chief and Council.

18.0 Land Management Authority and Limitations

Authority to Make Land Dispositions

18.1 Subject to Articles 6 and 9 and any Land Law, Chief and Council or any person or entity to whom Chief and Council has delegated responsibility to, may grant, with or without conditions, Interests in, Licenses or Permits to use and Mortgages in relation to NCN Lands, and such grants may include or exclude the use of Resources.

Land Resolutions Required for Dispositions

18.2 No Interest in, Licence or Permit to use, or Mortgage of NCN Lands shall be created, granted, disposed of, assigned or transferred except by Land Resolution, Administrative Order or where required, community approval, in accordance with this *Aski Pumenikewin* (land code) and any NCN Laws.

Non-Compliant Transactions Void

18.3 Any grant or disposition of NCN Lands or Resources that does not comply with this *Aski Pumenikewin* (land code) after it comes into effect is void.

Continuation of Existing Interests

18.4 NCN shall continue to recognize the disposition of any Interest in or right to use NCN Lands that exists on the date this *Aski Pumenikewin* (land code) comes into effect on the

same terms and conditions as in the document evidencing such disposition but any subsequent disposition of such existing Interest in, or Licence or Permit to use or Mortgage such NCN Lands shall be subject to this *Aski Pumenikewin* (land code) and NCN Laws.

Allotments

18.5 For greater certainty, Chief and Council do not require Community Input at a General Assembly or by Ratification Vote for the allotment of residential lots to NCN Citizens, but the allotment shall not entitle an NCN Citizen to access the Resources in, under or upon the NCN Lands allotted except in accordance with the terms of a Land Resolution or Administrative Order.

Allotment and Spousal Relationship Laws

18.6 Within twelve (12) months of the coming into force of this *Aski Pumenikewin* (land code) Chief and Council shall in accordance with Article 7, enact NCN Laws respecting:

(a) the allotment of lots to NCN Citizens and the disposition of such Interests upon the *Kanukutuskeet* (passing on) of the NCN Citizen to whom the allotment was made; and

(b) the rules and procedures applicable to the use, occupancy and possession of NCN Lands and any improvements made to, or buildings on such NCN Lands upon spousal relationship breakdown.

but Chief and Council may enact an interim law on spousal property consistent with the Framework Agreement provided that any such interim law will include a sunset clause that it will expire no more than twelve (12) months after the coming into force of this *Aski Pumenikewin* (land code).

19.0 **Registration of Dispositions**

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Duplicate Register

- 19.1 Chief and Council may establish and maintain an NCN Land Registry in accordance with Land Laws, which laws shall include without limitation the form and content of the register, the process for, and effect of, registering documents in the registry, including priorities, payment of fees for registration, and the appointment, powers, duties and functions of officers or employees who will administer the NCN Land Registry.

PART 7

ADMINISTRATION OF INTERESTS IN LAND

20.0 Limits on Mortgages and Seizures

Certain Indian Act Provisions Continue

- 20.1 In accordance with the *Framework Agreement*, sections 29, 87 and 89 of the *Indian Act* continue to apply to NCN Lands.

Mortgage of an Interest

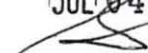
- 20.2 Subject to Article 9, a leasehold interest in NCN Lands is subject to charge, mortgage, attachment, levy, seizure, distress and execution, for a term not exceeding the term of the Interest or Licence granted by Chief and Council after taking into consideration community input and any advice received from the Land Advisory Committee.

NCN internal Mortgage

- 20.3 An NCN Citizen may Mortgage an Interest in NCN Lands if the Mortgage is funded by NCN or another NCN Citizen, and is authorized by a Land Resolution.

Time Limit

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20.4 The term of any charge or mortgage of a leasehold interest shall not exceed twenty-five (25) years unless, approved by Council Resolution after Chief and Council obtains Community Input.

Default in Mortgage

20.5 A charge or mortgage of a leasehold interest is not subject to seizure, attachment, distress, foreclosure or any other form of execution, unless:

- (a) the charge or mortgage was authorized by Land Resolution, and where required, community input was obtained
- (b) the charge or mortgage was registered in the NCN Lands Registry or the First Nation Land Register as the case may be; (c) a reasonable opportunity was given to the mortgagor, holder of the Interest, Licence or Permit and NCN to redeem the charge or mortgage;
- (d) any conditions required by Chief and Council at the time the charge or mortgage was approved by Land Resolution have been complied with by the holder of the charge or mortgage.

Power of Redemption

20.6 A charge or mortgage of a leasehold interest shall be considered to include a provision that NCN shall have the right to redeem the charge or mortgage in the event of default under the charge or mortgage.

NCN Becomes Mortgagor

20.7 If NCN exercises its power of redemption, NCN shall become the holder of the Interest, Licence or Permit and shall take the position of the charger or mortgagor for all purposes after the date of redemption.

Registration of Assignment

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20.8 If NCN does not exercise its power of redemption, the charger or mortgagor shall register any assignment of the Interest, Licence or Permit in NCN Lands in the NCN Lands Registry.

21.0 Residency and Access Rights

Right of Residency

21.1 Subject to 20.3, the following persons have a right to reside on or occupy NCN Lands:

- (a) NCN Citizens who have been allotted a residential lot by Chief and Council, their spouses and their children;
- (b) any invitee of an NCN Citizen referred to in clause (a);
- (c) lessees and permittees in accordance with the provisions of the granting instrument; and
- (e) a person authorized by Council Resolution or an NCN Law.

Right of Access

21.2 Subject to 20.3 and 20.4, the following persons shall have a right of access to NCN Lands, provided they comply with all applicable laws, they do not trespass on occupied land or interfere with any Interest, Licence or Permit granted in NCN Lands and there is no order of Chief and Council or a court of competent jurisdiction barring their access to NCN Lands:

- (a) NCN Citizens, their spouses and their children for residential, educational, social, employment or business purposes;
- (b) a holder of an Interest, Licence, Permit or Mortgage and those granted a right of access under such arrangements;
- (c) invited guests of an NCN Citizen;

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(d) a person who is authorized pursuant to an enactment by Parliament or the Legislature to provide a public service, to construct or operate a public institution or infrastructure or to conduct a technical survey; or

(e) a person authorized by Council Resolution or an NCN Law.

Use of Roads

21.3 Any person having a right of access to NCN Lands shall have the right to access such Land over Nisichawayasihk Cree Nation roads, subject to this *Aski Pumenikewin* (land code) and NCN Laws.

Denial of Access

21.4 Chief and Council may, for valid and fair reasons, including reasons of public health and safety and crime prevention, deny or restrict the right of any person to reside on or access NCN Lands if a Council Resolution is approved denying or restricting the rights of such person.

Trespass

21.5 Any person who resides on, enters or remains on NCN Lands other than in accordance with a residence or access right under this *Aski Pumenikewin* (land code) is guilty of an offence.

Civil Remedies

21.6 All civil remedies for trespass are preserved.

PART 8

DISPUTE RESOLUTION

22.0 Lands Tribunal Establishment

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- 22.1 Chief and Council shall appoint a chairperson, one or more vice-chairpersons and as many other members as Chief and Council considers appropriate to the Lands Tribunal to adjudicate disputes under this *Aski Pumenikewin* (land code). A majority of those persons appointed by Chief and Council to the Lands Tribunal shall have knowledge and experience related to lands, resources, administration or finances.

Term of Office

- 22.2 Members of the Lands Tribunal shall hold office for a term not exceeding five (5) years and not less than three (3) years and shall be removable only for cause by a two-thirds majority of Chief and Council of those members who vote on the matter.

Eligibility for Reappointment

- 22.3 Any member of the Lands Tribunal whose term expires or who resigns may be reappointed by Chief and Council.

Jurisdiction, Powers and Remedial Authority

- 22.4 Chief and Council shall enact NCN Laws to establish the jurisdiction, powers and remedial authority of the Lands Tribunal.

Remuneration

- 22.5 Chief and Council shall determine the remuneration and reasonable expenses to be paid to the members of the Lands Tribunal.

Oath of Office

- 22.6 Before assuming office, each member of the Lands Tribunal shall take the following oath of office:

I, _____ do solemnly swear (or affirm) that I will faithfully, truly and impartially, to the best of my knowledge, skill and ability execute and perform the office of (chairperson, vice-chairperson, member) of the Lands Tribunal without fear or favour and

will not except in the discharge of my duties, disclose to any person any of the evidence or other matters brought before the Lands Tribunal. So, help me *Kisi Manito* (God). (delete the last four words for persons who affirm).

Disqualification of Lands Tribunal members

22.7 No member of the Lands Tribunal shall hear or participate in the decision in any matter in which the member

(a) has a pecuniary interest; or

(b) has within a period of twelve (12) months prior to the date on which the matter was submitted to the Lands Tribunal acted as legal counsel, representative or agent for any of the parties to the matter before the Lands Tribunal.

Completion of Duties

22.8 Where any member of the Lands Tribunal ceases to be a member of the Lands Tribunal, that member may carry out and complete any duties or responsibilities the member would have carried out or exercised in relation to any proceeding as a member of the Lands Tribunal until the proceeding is completed.

Annual Report

22.9 The Lands Tribunal shall annually submit a report on the activities and operations of the Lands Tribunal to Chief and Council through the duly appointed portfolio holder designated by Chief and Council and the report shall be presented to the next General Assembly.

Chairperson

22.10 The chairperson is the presiding officer of the Lands Tribunal.

Panels

22.11 The chairperson may

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- (a) establish panels of the Lands Tribunal to determine any matters before the Lands Tribunal;
- (b) terminate an appointment to a panel;
- (c) fill any vacancy on a panel;
- (d) refer any matter which is before the Lands Tribunal to another panel;
- (e) do two or more of the things set out in clauses (a) to (d).

Composition of Panels

22.12 A panel of the Lands Tribunal shall consist of the chairperson or a vice-chairperson and at least two (2) other members but the panel shall consist of an odd number of members including the chairperson or vice-chairperson.

Authority of Panel

22.13 A panel has the power and authority of the Lands Tribunal.

Final Decision

22.14 The final decision of a majority of the Lands Tribunal or a panel of the Lands Tribunal is the final decision of the Lands Tribunal or panel and if there is no final decision which is common to a majority of the members, the final decision of the chairperson or the presiding member of the panel shall be considered the decision of the Lands Tribunal or the panel.

Practice and Procedure

22.15 The Lands Tribunal shall determine its own practice and procedure subject to any NCN Laws, but shall give the parties the opportunity to present evidence and make representations, orally or in writing.

Public Hearing

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22.16 When the Lands Tribunal considers it necessary or appropriate to conduct an oral hearing, the hearing shall be open to the public but the Lands Tribunal may hold the hearing in camera where the Lands Tribunal is of the opinion that the desirability of avoiding disclosure of intimate financial or personal matters outweighs the desirability of adhering to the principle that hearings be open to the public.

Judicial Review

22.17 A final decision, order, direction, declaration or ruling, but not a procedural, interim, or any other decision, order, direction, declaration, or ruling of the Lands Tribunal or a panel, may be reviewed by a court of competent jurisdiction solely by reason that the Lands Tribunal or a panel failed to observe a principle of natural justice, failed to apply NCN customary law principles, or otherwise acted beyond or refused to exercise jurisdiction, if

- (a) the applicant for review has first requested the Lands Tribunal or a panel to review its decision and the Lands Tribunal or the panel has decided not to undertake a review, has undertaken a review and rendered a decision about the matter, or has failed to make a decision on the review within ninety (90) days after the date on which it was made; and
- (b) no more than thirty (30) days has elapsed from the date of the decision by the Lands Tribunal or the panel not to undertake a review or the date of the decision on the review, or the expiration of the ninety (90) day period referred to in clause

PART 9

OTHER MATTERS

23.0 Indemnity and Insurance

Indemnity

23.1 Members of Chief and Council, the Lands Advisory Committee, Lands Tribunal and officers and employees of *Nisichawayasi Nehethowuk Okimawin* engaged in carrying out

any matter related to the administration of NCN Lands are indemnified and saved harmless from all claims, liabilities and demands of any kind or nature whatsoever arising from the performance of their obligations and duties under this *Aski Pumenikewin* (land code), a Land Law or a Land Resolution, provided they have not acted fraudulently or negligently in the performance of their obligations and duties.

Liability Coverage

23.2 Chief and Council may, but is not obligated to, arrange, maintain and pay for insurance coverage for its officers and employees engaged in carrying out any matter related to the administration of NCN Lands to indemnify them against personal liability arising from the performance of those duties.

Extent of Coverage

23.3 The extent of the insurance coverage shall be determined by the Chief and Council but the Lands Advisory Committee may make recommendations regarding such coverage.

24.0 Offences

Application of the Criminal Code

24.1 Unless some other procedure is provided for by Land Law or a law of Parliament or a Legislature the summary conviction procedures of Part XXVII of the Criminal Code, as amended from time to time, apply to offences under this *Aski Pumenikewin* (land code) or any other Land Law.

Fines

24.2 Unless a greater penalty is provided for in any Land Law or a law of Parliament, any person who commits an offence under this *Aski Pumenikewin* (land code) or a Land Law is liable to a fine not exceeding \$5,000 and to a term of imprisonment not to exceed six months or both.

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Enforcement

24.3 NCN may appoint justices of the peace or a *Nisichawayasi court* for the enforcement of this *Aski Pumenikewin* (land code) and any Land Law but in the absence of such appointments, this *Aski Pumenikewin* (land code) and Land Laws shall be enforced through the provincial courts.

Enforcement Authority

24.4 A person appointed as a justice of the peace or to the *Nisichawayasi court* shall have jurisdiction to try offences established by established under this *Aski Pumenikewin* (land code) or any Land Law.

Appeal

24.5 Decisions made pursuant to Article 23.4 may be appealed to a court of competent jurisdiction.

25.0 Approvals and Effective Date

Approvals

25.1 This *Aski Pumenikewin* (land code) and the Individual Agreement must be approved by Ratification Vote held in accordance with the Community Ratification Process and certified by the verifier in accordance the Framework Agreement.

Effective Date

25.2 This *Aski Pumenikewin* shall take effect on a date fixed by Council Resolution that is no more than ninety (90) days after the date of certification by the verifier.

26.0 Amendment or Repeal

Council Authority to Make Technical Amendments

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26.1 Chief and Council shall review this *Aski Pumenikewin* (land code) from time to time and may make amendments that do not change the substance of this *Aski Pumenikewin* including but not limited to:

- (a) references to clauses in other legislation or another document amended, enacted or repealed after *Aski Pumenikewin* takes effect;
- (b) minor improvements in language to clarify the meaning of provisions of this *Aski Pumenikewin*;
- (c) grammatical or typographical errors.

Substantive Amendments or Repeal

26.2 All other amendments to, or repeal and re-enactment of, this *Aski Pumenikewin* (land code) must be approved by Chief and Council after obtaining Community Input...

Effective Date of Amendments or Repeal and Re-enactment

26.3 Amendments to, or repeal and re-enactment of this *Aski Pumenikewin* (land code) shall take effect on the date established by Council Resolution.

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