

**Nipissing First Nation  
LAND CODE**

**April 11, 2003**

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**Certified**  
June 12, 2003  
Date  
Mel W. Jacobs  
Mel W. Jacobs, Verifier

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### **Certification of Land Code**

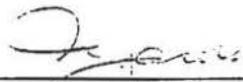
Whereas the *Nipissing First Nation Land Code* and the Individual Agreement with Canada were submitted to a ratification vote at Nipissing First Nation;

Whereas I have reported that the ratification vote was conducted in accordance with the *Nipissing First Nation Community Ratification Process* confirmed by myself as Verifier;

Whereas the *Nipissing First Nation Land Code* and the Individual Agreement were approved by the registered voters on May 9, 2003;

Therefore, I hereby certify the *Nipissing First Nation Land Code* attached as Annex #1.

Dated at Curve Lake First Nation on the 3<sup>rd</sup> day June 2003.



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Mel W. Jacobs, Verifier

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## NIPISSING FIRST NATION LAND CODE

### Preamble

**Whereas** the Nipissing First Nation has a profound relationship with the Land;

**And Whereas** the Nipissing are proud, united people whose purpose is to establish a future that shall ensure a high quality of life while flourishing with the environment;

**And Whereas** Nipissing traditions, cultural beliefs and the languages are the driving force of our success and destiny;

**And Whereas** the Nipissing First Nation aspires to move ahead as an organized, highly-motivated, determined and self-reliant nation;

**And Whereas** the Nipissing First Nation has entered into the *Framework Agreement on First Nation Land Management* with Canada on February 12, 1996, as amended, and which was ratified on behalf of the Government of Canada by the *First Nations Land Management Act*, S.C. 1999, c.24;

**And Whereas** the Nipissing First Nation wishes to manage its Land and resources, rather than having its Land and resources managed on its behalf by Canada in Accordance with the *Indian Act*.

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

**PART 1  
PRELIMINARY MATTERS**

**1. Title**

Title

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

**2. Interpretation**

Definitions

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

“Abrogate” means to abolish by authoritative action, annul;

“Canada” means Her Majesty the Queen in Right of Canada;

“Common-Law Partnership” means the relationship between two (2) persons who are cohabiting in a conjugal relationship;

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

“Community Meeting of Members” means a meeting under Part 3 of this *Land Code* to which the Members are invited to attend;

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

“Derogate” means to take away a part so as to impair, detract;

“Eligible Voter” means, for the purpose of voting in respect of Land matters under this *Land Code*, a Member who has attained the age of eighteen (18) years of age on or before the day of the vote;

"Extended Family", in respect of a person, means the person's grandparent, uncle, aunt, first degree cousin, grandchild and/or any other relation or relationship that Council may add by law;

"First Nation Lands 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 the fourteen First Nations, including Nipissing First Nation, on February 12, 1996, as amended;

"Immediate Relatives", in respect of a person, means the person's parent, sister, brother, child and/or Spouse;

"Individual Agreement" means the Individual Agreement made between Nipissing First Nation and Canada in accordance with section 6.1 of the *Framework Agreement*, as amended from time to time;

"Land Committee" means the Land Committee established under this *Land Code*;

"Land Law" means a law, restricted to Nipissing First Nation Land, enacted pursuant to this *Land Code*;

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

"Nipissing First Nation" means the Nipissing First Nation and its Members;

"Nipissing First Nation Land" means any portion of Nipissing reserve that is subject to this *Land Code*;

"Nipissing Land Register" means the register maintained by Nipissing First Nation under section 32 of this *Land Code*;

"Panel" means the Dispute Resolution Panel established under section 48 of this *Land Code*;

"Ratification Vote" means a vote of registered Eligible Voters under section 16 of this *Land Code*;

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

“Riparian Rights” means the legal rights of owners of land bordering on a river or other body of water. Also, law that pertains to use of the water for that land;

“Spouse” means a person who is married to another, whether by a traditional customary, religious or civil ceremony, and includes a Spouse by Common-Law Partnership.

Clarification

2.2 Any words or terms used in this *Land Code* which are defined in the *Framework Agreement* shall have the same meaning as in the *Framework Agreement*, unless the context otherwise requires.

Definitions

2.3 For greater certainty, if context requires, Nipissing First Nation laws, policies and regulations may prescribe different definitions than is provided in this *Land Code*.

Number

2.4 Words in the singular include the plural, and words in the plural include the singular.

Paramountcy

2.5 If there is an inconsistency or conflict between this *Land Code* and any other enactment of the Nipissing First Nation, this *Land Code* prevails to the extent of the inconsistency.

Culture and traditions

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

Language

- 2.7 The language of the Nipissing First Nation may be used at any time, so long as the interpretation is provided in English.

Non-abrogation

- 2.8 This *Land Code* does not Abrogate or Derogate from any Aboriginal, treaty or other rights or freedoms that pertain now or in the future to Nipissing First Nation.

Fair interpretation

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

Special Relationship

- 2.10 This *Land Code* does not Abrogate the special relationship between Canada and the Nipissing First Nation.

Land and interests affected

- 2.11 A reference to Nipissing First Nation 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, and renewable and non-renewable natural resources in and of that Land, to the extent that these are under the jurisdiction of Canada; and
  - (b) all the interests and licenses granted to Nipissing First Nation by Canada listed in the Individual Agreement.

### **3. Authority to Govern**

Origin of authority

- 3.1 The traditional teachings of the Nipissing First Nation speak of the obligation of the people of the Nipissing First Nation to care for and respect the Land and the magnificent wonders of Nature created on the Land. By enacting this *Land Code*, the Nipissing First Nation is re-assuming this special responsibility.

Flow of authority

- 3.2 The authority of the Nipissing First Nation to govern its Land and resources flows from the Creator to the people of the Nipissing First Nation, and from the people to the Chief and Council according to the culture, traditions, customs and laws of our Nipissing First Nation.

#### **4. Purpose**

Purpose

- 4.1 The purpose of this *Land Code* is to set out the principles, rules and administrative structures that apply to Nipissing First Nation Land and by which Nipissing First Nation shall exercise authority over that Land in accordance with the *Framework Agreement*.

Ratification

- 4.2 The *Framework Agreement* is ratified and confirmed by the Nipissing First Nation when this *Land Code* takes effect as declared by Council Resolution.

#### **5. Description of Nipissing First Nation Land**

Nipissing First Nation Land

- 5.1 The Nipissing First Nation Land that is subject to this *Land Code* is that land:
- (a) shown on a copy of the Reference Plan or sketch map specifically prepared for this purpose by the Office of the Surveyor General of Canada, Natural Resources Canada attached to Annex "C" of the Individual Agreement; and
  - (b) described in Annex "C" to the Individual Agreement with reference to the original Order-in-Council of the Privy Council (OCPC) or Proclamation setting aside the lands for the benefit of the Nipissing First Nation, any subsequent OCPC's adding lands to the reserve and any subsequent OCPC's taking lands out of the reserve.

Additional Land

- 5.2 Nipissing First Nation Land includes all reserve lands listed in the Individual Agreement and such other lands as may be included in the Individual Agreement as amended from time to time.

## PART 2 NIPISSING FIRST NATION LAND LAWS

### 6. Land Law-Making Powers

#### Council may make Land Laws

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

#### Examples of Land Laws

- 6.2 For greater certainty, Council may make Land Laws including, but not limited to:
- (a) regulation, control and prohibition of zoning, land use, subdivision control and land development;
  - (b) creation, regulation and prohibition of interests and licenses in relation to Nipissing First Nation Land;
  - (c) environmental assessment and protection;
  - (d) provision of local services in relation to Nipissing First Nation Land and the imposition of equitable user charges;
  - (e) enforcement of Nipissing First Nation Land Laws; and

- (f) provision of services for the resolution, outside the courts, of disputes in relation to Nipissing First Nation Land.

## **7. Land Law-Making Procedure**

### Introduction of Land Laws

- 7.1 A proposed Land Law may be introduced at a duly convened meeting of the Council by:
- (a) the Chief;
  - (b) a Councillor;
  - (c) a representative of the Land Committee; or
  - (d) any Eligible Voter.

### Tabling and posting of proposed Land Laws

- 7.2 Before a proposed Land Law may be enacted by the Council, the proposed Land Law shall be:
- (a) tabled at a duly convened meeting of the Council held at least twenty eight (28) consecutive days before the Land Law is to be enacted;
  - (b) deposited with the Chair of the Land Committee at least twenty one (21) consecutive days before the Land Law is to be enacted; and
  - (c) posted in public places on Nipissing First Nation Land at least twenty one (21) consecutive days before the Land Law is to be enacted.

### Urgent matters

- 7.3 The Council may enact a Land Law without the preliminary steps required under section 7.2, on the recommendation and/or in consultation with the Land Committee, if the Council is of the opinion that the Land Law is

needed urgently, for public health and safety or to protect Nipissing First Nation Members or Land.

Expiration

- 7.4 A Land Law enacted under section 7.3 expires twenty eight (28) consecutive days after its enactment unless re-enacted in accordance with section 7.2.

Approval of Land Law

- 7.5 A Land Law is enacted if it is approved by:
- (a) a quorum of Council at a duly convened meeting of Council open to the Members; or
  - (b) the Eligible Voters at a Community Meeting of Members when required.

Certification of Land Laws

- 7.6 The original copy of any Land Law or Resolution concerning Nipissing First Nation Land shall be signed by a quorum of Council present at the duly convened meeting at which it was enacted or at a duly convened meeting subsequent to the Community approval.

## **8. Publication of Land Laws**

Publication

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

Posting Land Laws

- 8.2 Within seven (7) consecutive days after a Land Law has been enacted, Council shall post a copy of the Land Law in all the administrative offices of Nipissing First Nation.

Register of Land Laws

- 8.3 The Council shall maintain, at the administrative offices of Nipissing First Nation, a register of the original copy of all Land Laws and Resolutions,

including all Land Laws and Resolutions that have been repealed or are no longer in force.

Copies for any person

- 8.4 Any person may obtain a copy of a Land Law or Resolution on payment of a reasonable administrative fee set by the Council, or a body designated by Council.

## **9. Commencement of Land Laws**

Land Laws taking effect

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

## **10. Enforcement of Land Laws**

Enforceability of Land Laws

- 10.1 To enforce its *Land Code* and its Land Laws, Nipissing First Nation shall have the power to:
- (a) establish offences that are punishable on summary conviction;
  - (b) provide for fines, imprisonment, restitution, community service, and alternate means for achieving compliance; and
  - (c) establish comprehensive enforcement procedures consistent with federal law, including inspections, searches, seizures and compulsory sampling, testing and the production of information.

## **PART 3 COMMUNITY INVOLVEMENT**

## **11. Participation of Members**

Participation of Members

11.1 Every Member is entitled to participate in the community consultation processes set out in Part 3 of this *Land Code*.

## **12. Participation of Eligible Voters**

### Participation of Eligible Voters

12.1 Every Eligible Voter is entitled to participate in the community approval processes set out in Part 3 of this *Land Code*.

## **13. Community Consultation Meeting of Members in Land Law-Making**

### Community Meeting of Members

13.1 The Council shall consult with Members by convening at a Community Meeting of Members prior to the enactment of a Land Law:

- (a) respecting a community plan or subdivision plan;
- (b) affecting a heritage site or an environmentally sensitive property;
- (c) respecting environmental assessment;
- (d) respecting the transfer and assignment of rights and interests in Nipissing First Nation Land;
- (e) respecting matrimonial real property on reserve under section 40;
- (f) respecting the rate and criteria for the payment of fees or rent for Nipissing First Nation Land;
- (g) respecting the voluntary land exchange agreement under section 19;
- (h) respecting the rights and procedures on community expropriation; and

- (i) respecting any other matter, law or class of law that Council, by Resolution, declares to be subject to this section.

Process to Implement Land Laws

- 13.2 Subject to section 40, the Land Committee, within a reasonable time after this *Land Code* takes effect, shall advise Council on establishing a community process to develop and implement the Land Laws referred to in section 13.1.

**14. Procedure at a Community Meeting of Members**

Notice of Community Meeting of Members

- 14.1 The Council shall give written notice of the Community Meeting of Members that:
  - (a) specifies the date, time and place of the meeting;
  - (b) contains a brief description of the matters to be discussed and decided on at the meeting; and
  - (c) contains the name and telephone number of a contact person.

Manner of notice

- 14.2 The notice of a Community Meeting of Members must be given to the Members by:
  - (a) posting the notice in public places on Nipissing First Nation Land at least twenty-one (21) working days before the meeting;
  - (b) mailing the notice to Members and taking reasonable steps to locate and inform Members who reside on and off-reserve;
  - (c) publishing the notice in the community newsletter or local newspaper at least ten (10) working days before the meeting; and

- (d) such additional method as Council may consider appropriate in the circumstances.

Who may attend

14.3 All Members may attend a Community Meeting of Members.

Permission of Council

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

Other meetings

14.5 The Council may schedule more than one Community Meeting of Members to discuss and decide on a matter that requires a Community Meeting of Members.

Other Land Laws

14.6 Subject to sections 13.1 to 15.3, for greater certainty, the Council may make laws respecting Community Meeting of Members.

## 15. Community Approval at a Community Meeting of Members

Community approval by  
Community Meeting of Members

- 15.1 Community approval at a Community Meeting of Members must be obtained for the following:
- (a) any Master Land use plan;
  - (b) any new grant or disposition of an interest or license to a non-member in any Nipissing First Nation Land exceeding a term of thirty-five (35) years;
  - (c) any renewal of a grant or disposition of an interest or license to a non-member in any Nipissing First Nation Land that extends the original term beyond thirty-five (35) years;

- (d) any grant or disposition of any non-renewable natural resources on any Nipissing First Nation Land exceeding a term of five (5) years;
- (e) any deletion of a heritage site referred to in section 18 of this *Land Code*;
- (f) an expropriation of a Member's interest referred to in section 17 of this *Land Code*;
- (g) any voluntary exchange of Nipissing First Nation Land referred to in section 19 of this *Land Code*;
- (h) any Land Law on matrimonial real property on Nipissing First Nation Land that shall be enacted under section 40; and
- (i) any law or class of law that Council, by Resolution, declares to be subject to this section.

Quorum

15.2 The quorum for a Community Meeting of Members under this *Land Code* is ten percent (10%) of Eligible Voters.

Voting

15.3 If there is a quorum present at a Community Meeting of Members, decisions may be made by a majority vote of fifty percent plus one (50% + 1) of the Eligible Voters present at the meeting.

## 16. Ratification Votes

Community approval by Ratification Vote

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

- (a) any amendment to the Individual Agreement that reduces the amount of funding provided by Canada;
- (b) any amendment to this *Land Code*; and

- (c) any law or class of law that Council, by Resolution, declares to be subject to this section.

Individual Agreement with Canada

- 16.2 For greater certainty, an amendment to, or renewal of, the Individual 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

- 16.3 Any Ratification Vote required under this *Land Code* shall be conducted in substantially the same manner as the *Nipissing First Nation Community Ratification Process*, which was used to ratify this *Land Code*.

Exception

- 16.4 For greater certainty, revisions made pursuant to section 53.1 do not require community approval by a Ratification Vote.

No verifier

- 16.5 A verifier is not needed in any Ratification Vote, except a vote on an amendment to this *Land Code*.

Quorum

- 16.6 In order to obtain a quorum for a Community approval by Ratification Vote under this *Land Code* at least thirty three percent (33%) of Eligible Voters must register.

Minimum requirements for approval

- 16.7 A matter shall be considered approved at a ratification vote if a majority of the registered Eligible Voters cast a vote in favour of the matter.

Second Ratification Vote

- 16.8 If a quorum was not obtained pursuant to sections 16.6 a second Ratification Vote shall be called.

Second Attempt at Ratification Vote Quorum

16.9 The quorum for Community approval for a second attempt at a Ratification Vote under this *Land Code* is ten percent (10%) of Eligible Voters.

Voting

16.10 If a quorum of Eligible Voters is present for a second attempt at a Ratification Vote, decisions may be made by a majority vote of fifty percent plus one (50% + 1) of the Eligible Voters present at the meeting.

No Third Ratification Vote

16.11 If the required quorum pursuant to section 16.9 is not obtained, the amendment to the Individual Agreement or the amendment to the *Land Code* shall not be executed, shall have no effect and shall not be submitted for a third Ratification Vote. The document may be re-submitted for a Ratification Vote under section 16.6 provided additional community consultation occurs, community direction is obtained to re-draft and the document is re-drafted accordingly.

Other laws

16.12 For greater certainty, the Council may make laws respecting Ratification Votes.

## PART 4 PROTECTION OF LAND

### 17. Expropriation

Acquisition by mutual agreement

17.1 The right of Nipissing First Nation to expropriate can only be exercised after a good faith effort to acquire, by mutual agreement, the interest or license in Nipissing First Nation Land.

Rights and interest that may be expropriated

17.2 An interest or license in Nipissing First Nation Land, or in any building or other structure on those Lands, may only be expropriated by Nipissing First

Nation in accordance with section 17 of the *Framework Agreement* and any Land Law enacted for the purpose of establishing the rights and procedures for community expropriations.

Community purposes

- 17.3 A community expropriation shall only be made for a necessary community purpose or works of Nipissing First Nation, including but not limited to: a fire hall, sewage or water treatment facility, community centre, public works, roads, schools, day-care facility, hospitals, health-care facility, and retirement home.

Expropriation laws

- 17.4 Before proceeding to make any community expropriations in accordance with this *Land Code*, the Council shall enact a Land Law respecting the rights and procedures for community expropriations, including provisions respecting:
- (a) the taking of possession of the interest or license;
  - (b) transfer of the interest or license;
  - (c) notice of expropriation and service of the notice of expropriation;
  - (d) entitlement to compensation;
  - (e) determination of the amount of compensation; and
  - (f) the method of payment of compensation.

Member notification

- 17.5 In the case of an expropriation of a Member's interest in Nipissing First Nation Land, the affected Member or Members must receive notification of the expropriation within a reasonable time prior to the release of the public report referred to in section 17.6.

Public report

17.6 Before Nipissing First Nation decides to expropriate an interest or license, it shall make a public report on the reasons justifying the expropriation.

Community approval

17.7 In the case of an expropriation of a Member's interest, the expropriation must first receive community approval at a Community Meeting of Members.

Compensation for rights and interests

17.8 Nipissing First Nation shall, in accordance with its Laws and the *Framework Agreement*:

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

Compensation calculations

17.9 Nipissing First Nation shall calculate the total value of the compensation under this section based on the heads of compensation set out in the *Expropriation Act (Canada)*.

Market value

17.10 The "market value" of an expropriated interest or license is equal to the amount that would have been paid for the interest or license if it had been sold by a willing seller to a willing buyer under no duress.

Neutral evaluation to resolve disputes

17.11 The resolution of disputes concerning the right of Nipissing First Nation to expropriate shall be determined by neutral evaluation, in the same manner as provided in Part IX of the *Framework Agreement*, and the sixty (60) day period referred to in clause 32.6 of the *Framework Agreement* shall be applied, as appropriate in the circumstances, by the neutral evaluator.

Arbitration to resolve disputes

17.12 The resolution of the following disputes shall be determined by arbitration, in the same manner as provided in Part IX of the *Framework Agreement*:

- (a) disputes concerning the right of the holder of an expropriated interest or license to compensation; and
- (b) disputes concerning the amount of the compensation.

## 18. Heritage Sites

Community consultation  
of development

18.1 No development shall be allowed on any site designated as a heritage site under the Land use plan, unless the development receives community consultation at a Community Meeting of Members.

Land Use Plan

18.2 For greater certainty, no amendment may be made to a Land use plan to delete a heritage site unless the amendment receives community approval at a Community Meeting of Members.

## 19. Voluntary Land Exchanges and Protections

Conditions for a Land exchange

19.1 Nipissing First Nation may agree with a third party to exchange a parcel of Nipissing First Nation Land for a parcel of land from that other party in accordance with this *Land Code* and the *Framework Agreement*.

No effect

19.2 A land exchange is of no effect unless it receives community approval at a Community Meeting of Members.

Land to be received

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

- (a) it must be equal to or greater than the area of Nipissing First Nation Land to be exchanged;
- (b) it must be at least comparable to the appraised value of the Nipissing First Nation Land for which it is to be exchanged; and
- (c) it must receive reserve status and become part of Nipissing Reserve No. 10 and Nipissing First Nation Land subject to this *Land Code*.

Negotiators

- 19.4 The person or persons who shall have authority to negotiate a land exchange agreement on behalf of Nipissing First Nation must be designated by Resolution.

Additional land

- 19.5 Nipissing First Nation may negotiate to receive other compensation, such as money or one or more other parcels of land, in addition to the parcel referred to in section 19.3 above which is intended to become a reserve. Such other parcels of land may be held by Nipissing First Nation in fee simple or some other manner.

Federal consent

- 19.6 Before Nipissing First Nation concludes a land exchange agreement, it must receive a written statement from Canada clearly stating that Canada:
- (a) consents to set apart as a reserve the land to be received in exchange, as of the date of the land exchange or such later date as the Council may specify by Resolution; and
  - (b) consents to the manner and form of the exchange as set out in the exchange agreement.

Community notice

- 19.7 Once negotiations on the land exchange agreement are concluded, the Council/Land Committee shall provide the following information to Eligible Voters at least twenty one (21) consecutive days before the vote:

- (a) a description of the Nipissing First Nation Land to be exchanged;
- (b) a description of the land to be received in the exchange;
- (c) a description of any other compensation to be received;
- (d) a report of a certified land appraiser setting out that the conditions in section 19.3 have been met;
- (e) a copy or summary of the exchange agreement; and
- (f) a copy of the consent referred to in section 19.6.

Process of land exchange

19.8 The land exchange agreement shall provide that:

- (a) the other party to the exchange must transfer to Canada the title to the land which is to be set apart as a reserve;
- (b) the Council must pass a Resolution authorizing Canada to transfer title to the Nipissing First Nation Land being exchanged, in accordance with the exchange agreement;
- (c) a copy of the instruments transferring title to the relevant parcels of land must be registered in the Nipissing Land Register and a copy sent to the First Nation Lands Register; and
- (d) the Land to be set apart as a reserve has been subject to an environmental audit, and clearance or remediation as necessary, or that Council is satisfied that adequate provision has been made for such clearance or remediation at no cost to Nipissing First Nation, and with full indemnification to Nipissing First Nation.

**PART 5  
ACCOUNTABILITY**

## 20. Conflict of Interest

### Application of rules

20.1 The rules in section 20.2 apply to the following persons:

- (a) each member of the Council who is dealing with any matter before Council that is related to Nipissing First Nation Land;
- (b) each person who is an employee of Nipissing First Nation dealing with any matter that is related to Nipissing First Nation Land; and
- (c) each person who is a member of a board, committee or other body of Nipissing First Nation dealing with any matter that is related to Nipissing First Nation Land.

### Duty to report and abstain

20.2 If there is any financial, familial or personal conflict of interest in the matter being dealt with, the person:

- (a) shall disclose the interest to the Council, or the board, committee or other body as the case may be;
- (b) shall not take part in any deliberations on that matter or vote on that matter; and
- (c) shall remove themselves from the proceedings.

### Common interests

20.3 Section 20.2 does not apply to any interest that is held by a Member in common with every other Member.

### Inability to act

20.4 If the board, committee or other body is unable to act due to a conflict of interest, the matter shall be referred to the Council.

### Meeting of Eligible Voters

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

Specific Conflict Situations

- 20.6 No Immediate Relatives and not more than two (2) Members from the same Extended Family shall be concurrent Members of an appointed board, committee or other body dealing with any matter that is related to Nipissing First Nation Land.

Elected Body

- 20.7 For greater certainty, the Council or any other elected board, committee or body is not included under the rule set out in 20.6.

Disputes

- 20.8 Questions about whether a breach of this section has occurred may be referred to the Panel.

Other laws

- 20.9 For greater certainty, the Council may enact laws to further implement this section.

## **21. Financial Management**

Application

- 21.1 This section applies only to financial matters relating to Nipissing First Nation Land.

Establishment of bank accounts

- 21.2 The Council shall maintain one or more financial accounts in a financial institution and shall deposit in those accounts:
- (a) transfer payments received from Canada for the management and administration of Nipissing First Nation Land;

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

Signing officers

- 21.3 The Council shall authorize at least five persons, one of whom shall be a member of the Council, to sign cheques and other bills of exchange or transfer drawn on the account.

Bonding

- 21.4 Every signing officer must be bondable.

Two signatures

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

Fiscal year

- 21.6 The fiscal year of Nipissing First Nation begins on April 1 of each year and ends on March 31 of the following year.

Adoption of budget

- 21.7 The Council shall, by Resolution, prior to the beginning of each fiscal year, adopt a Land management budget for that fiscal year and may, if the Council deems it necessary in the course of the fiscal year, adopt supplementary budgets for that fiscal year.

Procedure

21.8 After adopting the Land management budget or supplementary budget, the Council shall, without undue delay:

- (a) explain the budget or supplementary budget to the Members at an annual Community Meeting of Members; and
- (b) make a copy of the budget or supplementary budget available at the administrative offices of Nipissing First Nation for inspection by Members at reasonable hours.

If no budget

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

Budget rules

21.10 The Council may make rules respecting the preparation and implementation of Land management budgets.

Expenditures

21.11 The Council shall 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 budget.

Financial Policy

21.12 The Nipissing First Nation may, in accordance with this *Land Code*, adopt a financial policy to further manage monies related to Nipissing First Nation Land.

## **22. Financial Records**

Financial records

22.1 Nipissing First Nation shall keep financial records related to Land in accordance with generally accepted accounting principles.

Offences

22.2 A person is guilty of an offence if the person:

- (a) impedes or obstructs any Member from exercising their right to inspect the financial records of Nipissing First Nation; or
- (b) has control of the books or accounts or financial records of Nipissing First Nation and fails to give all reasonable assistance to any Member exercising their right to inspect the financial records.

Preparation of financial statement

22.3 Within one hundred and twenty (120) consecutive days after the end of each fiscal year, the Council on behalf of the Nipissing First Nation shall prepare a financial statement in comparative form, containing at a minimum:

- (a) a balance sheet;
- (b) a statement of revenues and expenditures and a comparison of these with the amounts stated in the Land management budget and any supplementary budget; and
- (c) any other information necessary for a fair presentation of the financial position of Nipissing First Nation.

Consolidated accounts, etc.

22.4 The accounting, auditing and reporting requirements of this *Land Code* may be done together with, and consolidated with, the other accounts, audits and reports of Nipissing First Nation.

## 23. Audit

Appointment of auditor

23.1 For each fiscal year, a duly accredited auditor shall be appointed to audit the land related financial records of Nipissing First Nation.

Holding office

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

Vacancy in office

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

Remuneration

- 23.4 The auditor's remuneration shall be approved by the Council.

Duty of auditor

- 23.5 The auditor shall, within one hundred and twenty (120) consecutive days after the end of Nipissing First Nation's fiscal year, prepare and submit to the Council, a report on Nipissing First Nation's financial statement, stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of Nipissing First Nation in accordance with generally accepted accounting principles applied on a basis consistent with that applied in the previous fiscal year.

Access to records

- 23.6 In order to prepare the report on Nipissing First Nation's financial statement, the auditor may at all reasonable times inspect any financial records of Nipissing First Nation and any person or body who administers money on behalf of Nipissing First Nation.

Explanation of auditor's report

- 23.7 The Council shall present the auditor's report to the Members at a Community Meeting of Members.

## **24. Annual Report**

Publish annual report

- 24.1 The Council, on behalf of the Nipissing First Nation, shall publish an annual report on Land issues within one month of receipt of the audit.

Contents

- 24.2 The annual report shall include:
- (a) an annual review of Land management;

- (b) a copy and explanation of the audit as it applies to Land; and
- (c) any other matter considered worth including by the Council or Land Committee.

## **25. Access to Information**

### *Access*

- 25.1 Any Member may, during normal business hours at the main administrative office of Nipissing First Nation, have reasonable access to:
- (a) the register of Land Laws;
  - (b) the auditor's report; and
  - (c) the annual report on Land issues.

### *Copies for Members*

- 25.2 Any Member may obtain a copy of the auditor's report or annual report on payment of a reasonable fee set by or under Resolution of the Council.

### *Access to records*

- 25.3 Any person authorized by the Council may, at any reasonable time, inspect the financial records of Nipissing First Nation related to Nipissing First Nation Land.

## **PART 6 LAND MANAGEMENT**

## **26. Land Staff**

### *Administration*

- 26.1 Council may delegate administrative authority to staff to carry out functions necessary for day to day administrative operations of lands and resources.

## 27. Land Committee

### Land Committee established

27.1 The Land Committee is hereby established to:

- (a) assist with the development of the land administration system;
- (b) advise the Council and its staff on matters respecting Nipissing First Nation Land;
- (c) recommend Land Laws, Resolutions, policies and practices respecting Nipissing First Nation Land to the Council;
- (d) hold regular and special Community Meetings of Members to discuss land issues and make recommendations to Council on the resolution of these land issues;
- (e) assist in the flow of information on land issues between Members and the Council;
- (f) oversee community approvals under this *Land Code*; and
- (g) carry out any other duties as may be assigned or delegated by Council.

### Development of land related rules and procedures

27.2 Within a reasonable time after this *Land Code* takes effect, the Land Committee shall, in consultation with the community, ensure that rules and procedures are developed that address the following matters:

- (a) environmental protection and assessment in relation to Nipissing First Nation Land;
- (b) any outstanding issues on the resolution of disputes in relation to Nipissing First Nation Land;
- (c) land use planning and zoning; and

- (d) section 40 respecting matrimonial real property on Nipissing First Nation Land and whether any change should be made to the policy upon which that section is based.

Implementation of policies

- 27.3 The rules and procedures, once developed, shall be presented to the Council for consideration and implementation as policies, Land Laws or amendments to this *Land Code*, whichever is most appropriate.

Internal procedures

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

## **28. Membership of the Land Committee**

Composition

- 28.1 The Land Committee shall be composed of 7 members, all of whom must be Eligible Voters.

Eligibility to be nominated as a Land Committee member

- 28.2 Any Eligible Voter is eligible for appointment or election to the Land Committee, except for the following persons:
  - (a) any person convicted of an offence that was prosecuted by way of indictment;
  - (b) any undischarged bankrupt person; and
  - (c) any person convicted of a corrupt practice in connection with an election, including accepting a bribe, dishonesty or wrongful conduct.

Selection of Land Committee members

- 28.3 The members of the Land Committee are to be selected as follows:

- (a) one (1) member of Council shall be appointed by the Council;  
and
- (b) the other members shall be determined by a Land Law that shall be enacted within a reasonable time after the *Land Code* comes into effect.

Selection law

28.4 The Council shall enact a law to establish the procedure for the Land Committee selection, whether by appointment or election, including transitional rules for the first members of the Land Committee.

Vacancy on Land Committee

28.5 The office of a member of the Land Committee becomes vacant if the person, while holding office:

- (a) is or becomes ineligible to hold office under section 28.2; or
- (b) is or becomes ineligible because of a transfer of membership from the Nipissing First Nation; or
- (c) is absent for three (3) consecutive meetings of the Land Committee for a reason other than illness or incapacity, and without being authorized to do so by the Land Committee; or
- (d) is declared to be mentally incompetent by a Medical or Civil authority; or
- (e) resigns from the Land Committee; or
- (f) has deceased; or
- (g) the member of the Land Committee appointed under section 28.3 (a) ceases to be a member of Council.

Vacancy in term

28.6 Where the office of an elected or appointed member of the Land Committee becomes vacant for more than ninety (90) consecutive days

before the date when another appointment or election would ordinarily be held, the seat may be offered to the next candidate who received the most votes in the last election, or a special election may be held or appointment made in accordance with this *Land Code*, as the case may be, to fill the vacancy.

Balance of term of office

- 28.7 A member of the Land Committee appointed or elected to fill a vacancy remains in office for the balance of the term in respect of which the vacancy occurred.

**29. Chairperson of the Land Committee**

Chairperson

- 29.1 The member of the Council who is appointed to the Land Committee is the Chairperson of the Land Committee, unless his or her duties on Council preclude fulfilling this function.

Alternate Chairperson

- 29.2 If the Chairperson is unable to perform the functions of office, either temporarily or on a long term basis, the Council shall appoint one (1) of the other Council members to act as or be the Chairperson, subject to confirmation by the Council.

Functions of Chairperson

- 29.3 The functions of the Chairperson are to:
- (a) chair meetings of the Land Committee;
  - (b) ensure the preparation of financial statements relating to all activities of the Land Committee, including the revenues and expenditures concerning Nipissing First Nation Lands;
  - (c) table the Land Committee's financial statements with the Council;
  - (d) report to the Nipissing First Nation on the activities of the Land Committee;

- (e) ensure the audited annual financial statements are published under section 23; and
- (f) perform other such duties as the Land Committee may reasonably prescribe.

### **30. Revenue from Land**

#### Determination of fees and rent

- 30.1 The Land Committee shall, subject to the approval of the Council, establish the process for determining:
- (a) the fees and rent for interests and licenses in community Land; and
  - (b) the fees for services provided in relation to any Nipissing First Nation Land.

### **31. Registration of Interests and Licenses**

#### Enforcement of interests and licenses

- 31.1 An interest or license in Nipissing First Nation Land created or granted after this *Land Code* takes effect is not enforceable unless it is registered in the Nipissing Land Register.

#### Registration of consent or approval

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

#### Duty to deposit

- 31.3 The Council shall ensure that an original copy of the following instruments is deposited in the First Nation Lands Register, as established by Canada, in accordance with section 51.1 of the *Framework Agreement*:
- (a) any grant of an interest or license in Nipissing First Nation Land;

- (b) any transfer or assignment of an interest in Nipissing First Nation Land;

### **32. Nipissing Land Register**

Duty to maintain the Nipissing Land Register

- 32.1 The Council shall maintain the Nipissing Land Register in the same form and with the same content as the First Nation Lands Register.

Duty of Member to deposit

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

## **PART 7 INTERESTS AND LICENCES IN LAND**

### **33. Limits on Interests and Licenses**

All dispositions in writing

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

Standards

- 33.2 The Council may establish mandatory standards, criteria and forms for interests and licenses in Nipissing First Nation Land.

Improper transactions void

- 33.3 A deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which Nipissing First Nation, a Member or any other person purports to grant, dispose of, transfer or assign an interest or license in Nipissing First Nation Land after the date this *Land Code* takes effect is void if it contravenes this *Land Code*.

Non-Members

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

Grants to non-Members

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

### 34. Existing Interests

Continuation of existing interests

34.1 Any interest or license in Nipissing First Nation Land that existed when this *Land Code* takes effect shall, subject to this *Land Code*, continue in force in accordance with its terms and conditions.

### 35. New Interests and Licenses

Authority to make dispositions

35.1 Subject to section 15.1, the Council may, on behalf of Nipissing First Nation, grant:

- (a) interests and licenses in community Land, including certificates of possession, leases, permits, easements and rights-of-ways; and
- (b) permits to take resources from community Land, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances.

Conditional grant

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

Role of the Land Committee

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

## 36. Certificates of Possession

### Application

36.1 This section identifies the rights attaching to certificates of possession, whether issued under the *Indian Act* or under this *Land Code*.

### Nature of interest in certificate of possession

36.2 Subject to 31, a certificate of possession in respect of a parcel of Land is an interest that entitles the Member holding it to:

- (a) permanent possession of the Land;
- (b) benefit from the resources arising from the Land;
- (c) transfer, devise or otherwise dispose of the Land to another Member;
- (d) grant permits to take resources from the Land, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances;
- (e) any other rights, consistent with this *Land Code*, that are attached to certificates of possession under the *Indian Act*; and
- (f) any other rights, consistent with this *Land Code*, that Council may grant by way of Land Law or Resolution.

## 37. Allocation of Land

### Allocation of lots

37.1 The Council may by certificate of possession, lease or rental agreement allocate lots of available Land to Members in accordance with this *Land Code* and procedures and/or conditions established by the Council.

Allocation of lots

37.2 No community approval is required for:

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

No allocation of lots to non-Members

37.3 A person who is not a Member is not entitled to be allocated a lot or to hold a permanent interest in Nipissing First Nation Land.

Issuance of  
certificate of possession

37.4 The Council may issue a certificate of the interest to a Member for a lot allocated to that Member.

## 38. Transfer and Assignment of Interests

Transfer of  
certificate of possession

38.1 A Member may transfer or assign an interest in Nipissing First Nation Land to another Member without the need for any community approval or consent of the Council.

Consent of Council

38.2 Except for transfers under section 38.1 and transfers that occur by operation of Law, including transfers of estate by testamentary disposition, or in accordance with a Law enacted pursuant to section 40:

- (a) there shall be no transfer or assignment of an interest in Nipissing First Nation Land without the written consent of the Council; and
- (b) the grant of an interest or license is deemed to include section 38.2(a) as a condition on any subsequent transfers or assignments.

## 39. Residency and Access Rights

Right of residence

39.1 The following persons have a right to reside on Nipissing First Nation Land:

- (a) Members, who have been allocated a residential lot by Council, and their Spouses and children;
- (b) Members with a registered interest in Nipissing First Nation Land;
- (c) any invitee of a Member referred to in clause (a) or (b); and
- (d) lessees and permittees, in accordance with the provisions of the instrument granting the lease or permit.
- (e) a person authorized in writing by the Council/Land Committee or by a Nipissing First Nation law.

Right of Access

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

- (a) a lessee and his or her invitees;
- (b) permittees and those granted a right of access under the permit;
- (c) Nipissing First Nation Members and their Spouses and children, and his or her invitees;
- (d) a person who is authorized by a government body or any other public body, established by or under an enactment of Nipissing First Nation, 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 Council/Land Committee or by a Nipissing First Nation law.

Public access

- 39.3 Any person may have access to Nipissing First Nation Land for any social or business purposes, if:
- (a) the person does not trespass on occupied Nipissing First Nation Land and does not interfere with any interest in Nipissing First Nation Land;
  - (b) the person complies with all applicable laws; and
  - (c) no Resolution has been enacted barring that person from Nipissing First Nation Land.

Trespass

- 39.4 Any person who resides on, enters or remains on Nipissing First Nation Land other than in accordance with a residency or access right under this *Land Code* is guilty of a summary offence.

Civil remedies

- 39.5 All civil remedies for trespass are preserved.

## **40. Matrimonial Real Property on Reserve Law**

Development of rules and procedures

- 40.1 The Council shall enact a matrimonial real property on reserve law providing rules and procedures applicable on the breakdown of a marriage, to:
- (a) the use, occupancy and possession of Nipissing First Nation Land; and
  - (b) the division of interests in that Land.

Enactment deadline

- 40.2 The matrimonial real property on reserve law shall be enacted within twelve (12) months from the date this *Land Code* takes effect.

Immediate rules

- 40.3 In order that Members benefit immediately from the legislative authority of the Council to address the issue of matrimonial real property on reserve under this *Land Code*, the Council may enact a matrimonial real property on reserve law as soon as this *Land Code* comes into force. As this law would be enacted before the work of the Land Committee and the community consultation is complete, the law shall expire at the end of the twelve (12) month period after the coming into force of this *Land Code*, unless re-enacted, replaced or amended.

## PART 8 DISPUTE RESOLUTION

### 41. Purpose

Intent

- 41.1 The intent of this part is to ensure that all persons entitled to possess, reside upon, use or otherwise occupy Nipissing First Nation Land do so harmoniously with due respect to the rights of others and of Nipissing First Nation and with access to Nipissing First Nation procedures to resolve disputes.

Purpose

- 41.2 The purpose of these rules is to enable the parties to a dispute to achieve a just, speedy and inexpensive determination of matters in dispute, taking into account the values which distinguish dispute resolution from litigation.

### 42. Processes

Dispute Prevention

- 42.1 The parties shall use best efforts to prevent disputes from arising and shall consider the use of dispute resolution processes at the earliest possible stage of any conflict.

Disputes Prior  
to Land Code

- 42.2 Disputes that arose before the *Land Code* takes effect could also be referred to this Part.

Settle a Dispute

- 42.3 Nothing in this part shall be construed to limit the ability of any person to reach agreement to settle a dispute without recourse to this part.

Settlement Agreement

- 42.4 Any settlement reached through dispute resolution shall not be legally binding until it has been reduced to writing and properly executed by, or on behalf of, the parties.

Staged Processes

- 42.5 Nipissing First Nation intends that a dispute in relation to Nipissing First Nation Land, except as otherwise provided, progress in sequence through the following stages provided for in this part:
- (a) negotiation;
  - (b) facilitated discussions;
  - (c) mediation; and
  - (d) final arbitration by the Dispute Resolution Panel.

Termination of  
Processes

- 42.6 Negotiations, facilitated discussions and mediations may be suspended upon any of the following occurrences:
- (a) the parties reach an agreement;
  - (b) one of the parties refuses to continue with the negotiation, facilitated discussion or mediation;
  - (c) the mediator assesses that nothing meaningful is to be gained in

continuing the process; or

- (d) upon the request of both parties.

Notice of  
Termination

42.7 A notice of termination is required when further facilitated discussions or mediation shall not resolve the dispute. The dispute may progress to the next stage of the dispute resolution process or to final arbitration.

Dispute resolution  
not available

42.8 Dispute resolution is not available under this part for disputes in relation to:

- (a) administration or distribution of an estate;
- (b) decisions relating to housing allocations;
- (c) decisions of Chief and Council to grant or refuse to grant an interest or license in Nipissing First Nation Land to a non-Member;
- (d) decisions on expropriation under section 17 of this *Land Code*:  
and
- (e) prosecution or conviction of an offence under a Land Law or under criminal law.

Duty of Fairness

42.9 All persons involved in a dispute under this part shall 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

42.10 Chief and Council may prescribe such laws, Resolutions, rules, policies, procedures, forms and reasonable fees not inconsistent with this *Land Code*, as may be necessary to give effect to this part including but not limited to:

- (a) remuneration of facilitators, mediators, arbitrators, expert advisors, professionals or other persons retained to assist in the resolution of disputes under this part;
- (b) disclosure and confidentiality;
- (c) implementing recommendations of the Dispute Resolution Panel made under section 50.2; and
- (d) any other matter necessary to give effect to this part.

Code of Conduct

42.11 Council shall establish a code of conduct for facilitators, mediators, arbitrators, expert advisors, professionals or other persons retained to assist in the resolution of disputes under this part.

Waiver of Liability

42.12 By participating in this dispute resolution process, the parties agree that the facilitators, mediators, arbitrators and panelists shall not be liable to the parties for any act or omission in connection with the services provided by them in, or in relation to, the dispute resolution processes, unless the act or omission is fraudulent or involves willful misconduct.

Mandatory Application

42.13 Council may establish a Land Law that sets out the mandatory application of this part in certain circumstances.

Contractual Agreement

42.14 Subject to any Land Law enacted under section 42.13, a contractual agreement made under this *Land Code* may establish that the dispute resolution outlined in this *Land Code* and its Land Laws may be mandatory or may to some degree prescribe for alternate arbitration process if there is consensual agreement by the parties involved in that agreement. The dispute resolution clause which forms part of a contract shall be treated as an

agreement independent of the other terms of the contract.

Variation of Rules

42.15 Subject to any Land Law enacted under section 42.13, the parties to a dispute to which these rules apply may to some degree modify, vary or amend these rules by consensual agreement in writing, and notify the Dispute Resolution Panel in writing.

Civil Remedies Preserved

42.16 Notwithstanding section 42.13 and 42.14, 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

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

### 43. Negotiation

Informal Discussions

43.1 Nipissing First Nation intends that wherever possible, a dispute in relation to Nipissing First Nation Land shall be resolved by negotiation through informal discussion by the parties to the dispute prior to entering the dispute resolution process by filing a notice of dispute.

### 44. Procedure to File a Dispute

Procedure to File Dispute

44.1 A person who wishes to resolve a dispute with another person or Nipissing First Nation in relation to the use or occupation of Nipissing First Nation Land may file a written notice of dispute with the Lands Department setting out:

- (a) the nature of the dispute;

- (b) a statement outlining the facts and supporting arguments of the dispute claim; and
- (c) the relief that is sought.

Limitation Period

44.2 The limitation period for submitting a notice of dispute and referring a matter or dispute to the Panel is:

- (a) thirty (30) consecutive days after the day the decision, act or omission being referred was made;
- (b) thirty (30) consecutive days after the breakdown of negotiation; or
- (c) in the case of a breakdown and termination of facilitated discussions or mediation, thirty (30) consecutive days after the notice of termination.

## 45. Facilitated Discussions

Procedure

45.1 Within thirty (30) consecutive days of receiving a notice of dispute under section 44.1, the Lands Department shall prepare and deliver a report on the dispute and a copy of the notice of dispute to the Chair of the Dispute Resolution Panel.

Notice of Dispute

45.2 As soon as practicable after receiving a report and notice of dispute under section 45.1 the Chair of the Dispute Resolution Panel or another person not affected by the dispute and designated by the Nipissing First Nation Land Committee for that purpose, shall make best efforts to meet with the parties and attempt to resolve the dispute through facilitated discussions.

Set Meeting  
Date and Time

45.3 In setting the date and time of the meeting referred to in section 45.2 the Chair

of the Dispute Resolution Panel or other person appointed for the purposes of section 45.2 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.

#### Other Mechanisms

45.4 Where the Chair of the Dispute Resolution Panel or other person appointed for the purposes of section 45.2 concludes that the dispute cannot be resolved through facilitated discussions, he may in his sole discretion direct that the dispute proceed to mediation or final arbitration hearing by the Dispute Resolution Panel.

## **46. Mediation**

#### Appointment

46.1 A mediator shall be selected jointly by the parties to the dispute and the Dispute Resolution Panel.

#### Unable to Agree

46.2 If the parties to the dispute and the Dispute Resolution Panel are unable to agree on a mediator, the Dispute Resolution Panel shall hear the dispute.

#### Authorities

46.3 The mediator has no authority to decide the dispute without the agreement of the parties to the dispute.

#### Report

46.4 At the conclusion of mediation, the mediator shall submit a written report on the mediation proceedings to the parties to the dispute and the Dispute Resolution Panel.

## **47. Final Arbitration Procedure**

Disputes

47.1 Any matter or dispute related to Nipissing First Nation Land may be referred to the Panel for resolution.

Panel of three

47.2 Disputes referred to the Panel are to be heard by three (3) panelists chosen as follows:

- (a) one (1) panelist is to be chosen by each of the two (2) parties to the dispute;
- (b) one (1) panelist, who is to be the chairperson, shall be chosen by the rest of the Panel; and
- (c) in the case of situations not adequately covered by section (a) or (b), all three (3) panelists shall to be chosen by the Panel as a whole.

**48. Dispute Resolution Panel**

Panel established

48.1 The Dispute Resolution Panel is hereby established with jurisdiction to resolve disputes in relation to Nipissing First Nation Land.

Appointment of Panel

48.2 The Panel shall be composed of a maximum of twenty (20) panelists, all of whom must be Eligible Voters.

Ineligible

48.3 Notwithstanding section 20.6, in order to avoid conflict of interest, no council member, or employee of Nipissing First Nation or person already serving on another body, board or committee of Nipissing First Nation shall sit on the Panel.

Representation

48.4 The Land Committee shall appoint the panelists, and shall ensure that the Panel represents the various elements of the community.

Term of office

48.5 The panelists hold office for a term of three (3) years.

No remuneration

48.6 Unless Council by Resolution or law provides otherwise, panelists are to act on a volunteer basis and receive no remuneration for their services.

## **49. Impartiality**

Duty to act impartially

49.1 The Panel shall act impartially and without bias or favour to any party in a dispute.

Offence

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

Rejection of application

49.3 In addition to any other sanction, the Panel may reject an application without hearing it if the Panel believes that the applicant acted, or attempted to act, in a way to improperly influence its decision.

## **50. Powers of Panel**

Powers of Panel

50.1 The Panel may, after hearing a dispute:

- (a) confirm or reverse the decision, in whole or in part;
- (b) substitute its own decision for the decision in dispute;
- (c) direct that an action be taken or ceased;

- (d) refer the matter or dispute back for a new decision; or
- (e) make an order to give affect to its decision, including any necessary order for the survey of an interest in Nipissing First Nation Land, the registration of an interest in Nipissing First Nation Land, and the allocation of the costs of any incidental measures to be taken to give effect to such an order.

Recommendations  
By Panel

50.2 In addition to making a determination under section 50.1, the Dispute Resolution Panel may:

- (a) recommend to Chief and Council the suspension of any Land Law or decision made by Chief and Council for such period as is necessary for Chief and Council to reconsider, amend or repeal such law or decision, provided that any amendment or repeal of a Land Law is made in a manner consistent with this *Land Code*; or
- (b) make any other recommendation to Chief and Council that it deems reasonable and necessary in the circumstances.

Interim decisions

50.3 The Dispute Resolution Panel may, in relation to a dispute over which it has jurisdiction under this part, make any interim order it considers to be necessary as a matter of urgency to preserve the rights of the parties to the dispute or to preserve or protect an interest in Nipissing First Nation Land.

Rules of Panel

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

Professional services

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

Written decisions

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

Reasons

- 50.7 The Panel shall give reasons for its decision, and shall do so in writing if a party to the proceedings requests them before, or within fourteen (14) consecutive days after, the date of the decision.

Appeal of decision

- 50.8 A decision of the Panel is binding but, subject to any exception established by a law, may be appealed to the Federal Court (Trial Division).

## **PART 9 OTHER MATTERS**

### **51. Liability**

Liability Coverage

- 51.1 The Council shall arrange, maintain and pay, out of the transfer payments received from Canada, insurance coverage for Nipissing First Nation officers, employees and members of a board, committee or other body engaged in carrying out any matter related to Nipissing First Nation Land to indemnify them against personal liability arising from the performance of those duties.

Extent of coverage

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

Bonding

- 51.3 Every employee of Nipissing First Nation whose responsibilities include Land management or collecting or accounting for Land revenue must be bondable.

### **52. Offences**

Application of the Criminal Code

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

### 53. Revisions to *Land Code*

#### Revisions

53.1 A Ratification Vote is not required for revisions made to this *Land Code* that do not change the substance of this *Land Code*. The Council shall, from time to time, arrange and revise this *Land Code*. Revisions may be made as a result of, but are not limited to:

- (a) a reference in this *Land Code* to a clause in another act or document that was amended and resulted in clause renumbering;
- (b) a reference in this *Land Code* to an Act or parts thereof that have expired, have been repealed or suspended;
- (c) minor improvements in the language as may be required to bring out more clearly the intention of Nipissing First Nation without changing the substance of the *Land Code*;
- (d) changes in this *Land Code* as are required to reconcile seeming inconsistencies with other acts; and
- (e) correct editing, grammatical or typographical errors.

### 54. Commencement

#### Preconditions

54.1 This *Land Code* shall not take effect unless the community approves this *Land Code* and the Individual Agreement with Canada and this *Land Code* has been certified by the verifier pursuant to the *Framework Agreement*.

#### Commencement date

54.2 Subject to section 54.1, this *Land Code* shall take effect on the first day of the month following the certification of this *Land Code* by the verifier.