

This is ^{Annex 1} Exhibit " referred to in the
Affidavit of A. J. Gross
sworn before me at Kelowna, British
Columbia this 19th day of March 20 19.



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'NAMGIS FIRST NATION LAND CODE

October, 2018

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Certified a true copy
this 17th day of October, 2018


A Commissioner for taking Affidavits within British Columbia

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PREAMBLE

WHEREAS 'Namgis is continuously taking steps towards self-governance by rejecting the systems of the *Indian Act*;

WHEREAS the Government of Canada has adopted the principles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and 'Namgis holds Canada accountable to this commitment;

WHEREAS 'Namgis continues to assert its rights and title over the entirety of the territory, including the reserve lands;

WHEREAS 'Namgis has the right to manage and protect the lands and resources as the ancestors have done for generations;

WHEREAS 'Namgis is committed to protecting the lands, waters and resources within its territory, including the reserve lands;

WHEREAS 'Namgis is committed to building a sustainable local economy for 'Namgis and its Members;

WHEREAS 'Namgis continues to seek opportunities for Members to return home and connect with the land, waters and resources;

WHEREAS 'Namgis strives to reintegrate traditional values, laws and practices into land management;

WHEREAS 'Namgis aims to create processes relating to reserve land management that are inclusive of its Members;

WHEREAS 'Namgis recognizes the importance of building accountability and transparency into all processes relating to reserve land management;

WHEREAS 'Namgis has the option of having its reserve lands be managed pursuant to this Land Code, rather than having them be managed by Canada under the provisions in the *Indian Act*;

WHEREAS 'Namgis is asserting its right to exercise control over its reserve lands and resources for the use and benefit of its members by adhering to the *Framework Agreement on First Nations Land Management* and by having the *Framework Agreement on First Nations Land Management* apply to its reserve lands;

WHEREAS pursuant to the *Framework Agreement on First Nations Land Management*, a First Nation that wishes to establish a land management regime must adopt a land code applicable to its reserves; and

NOW THEREFORE, this *'Namgis Land Code* is hereby enacted as the fundamental land law of 'Namgis.

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PART 1 – PRELIMINARY MATTERS

1. Title

1.1. The title of this enactment is the '*Namgis Land Code*'.

2. Interpretation

Definitions

2.1. The following definitions apply in this Land Code:

"Advance Voting Day" means the date for in-person voting which shall be conducted seven (7) days before the date of the Referendum;

"Arbitrator" means the arbitrator appointed under Part 8;

"Canada" means Her Majesty the Queen in right of Canada;

"Certificate of Home Ownership" means the Written Instrument entitled a Certificate of Home Ownership granted by Council to a Member or Members registered or recorded in the '*Namgis Lands Register* in the form approved by Council by which the Member or Members own the house that is the subject of the Certificate of Home Ownership and have exclusive use and possession of the surveyed parcel of land on which the house is situate, but do have not an Interest in that surveyed parcel of land.

"Certificate of Possession" means documentary evidence of an allotment to a Member or Members issued prior to the date this Land Code comes into force under subsection 20(2) of the *Indian Act*;

"Chief" means the duly elected Chief of '*Namgis*, elected in accordance with the '*Namgis First Nation Election Code*;

"Community Purpose" means a purpose which is intended to provide a facility, benefit, or support for the Members or persons residing on '*Namgis First Nation Land*. It shall include, but shall not be limited to, utility or transportation corridors, and requirements related to transportation and utility corridors, including expansion of roads and utilities, public works, cemeteries, schools, day-care facilities, administrative buildings and facilities, seniors housing facilities, '*Namgis*-owned housing, hospitals, fire halls, sewage and water treatment facilities, playgrounds, community centres and other similar facilities, the protection of heritage sites and lands needed for economic or social development that will benefit '*Namgis* and its Members on '*Namgis First Nation Land*;

"Community Ratification Process" means the process developed pursuant to the *Framework Agreement on First Nations Lands Management* and the *First Nations Lands Management Act* for the purpose of ratifying this Land Code;

"Council" means the governing body of '*Namgis*, comprised of the duly elected Chief and Councillors of '*Namgis*, elected in accordance with the '*Namgis First Nation Election Code*;

"Councillor" means a duly elected Councillor of '*Namgis*, elected in accordance with the '*Namgis First Nation Election Code*;

"Deputy Electoral Officer" means the deputy electoral officer appointed under Part 9;

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"Easement" means an interest in 'Namgis First Nation Lands granted under this Land Code or, prior to the date this Land Code comes into force, granted pursuant to the provisions of the *Indian Act*, giving one person (the "grantee") the right to use the land of another ("grantor") for a right of way or to provide utility or other services to the land of the grantee. An Easement does not confer any right of exclusive possession in the land and does not restrict the rights of the grantor of the Easement beyond that required to give effect to the Easement granted;

"Elder" means, for the purpose of the Land Code, a Member that is 65 years of age or older;

"Electoral Officer" means the person appointed under this Land Code to conduct Referendums held under Part 9 of this Land Code;

"Electronic Voting" means voting electronically in a Referendum vote in accordance with 'Namgis electronic voting policy that may be established from time to time which shall at a minimum meet the same standards for in-person or mail-in voting as set out in Part 9, as adapted for electronic voting process;

"Eligible Voter" means, for the purpose of voting in respect to any matter pursuant to this Land Code, a person whose name appears on the 'Namgis membership list, has attained the age of nineteen (19) years of age on the date of the vote and is eligible to vote in accordance with the 'Namgis First Nation Election Code;

"Expropriation" means a taking of an Interest in or Licence in respect of 'Namgis First Nation Land for a Community Purpose through a process established by a Law and in accordance with this Land Code;

"First Nations Land Management Act" means the *First Nations Land Management Act* (Canada), S.C. 1999, c. 24, as amended from time to time;

"First Nations Land Register" means the register established by Canada in accordance with subsection 51.2 of the *Framework Agreement*;

"Framework Agreement" means the *Framework Agreement on First Nation Land Management* entered into between the Minister and 14 First Nations on February 12, 1996, as amended from time to time;

"Immediate Family" means father, mother, foster parent, brother, sister, Spouse, child, stepchild, ward, father-in-law, mother-in-law, grandparents, grandparents-in-law, brother-in-law, sister-in-law and any individual permanently residing in the household;

"Individual Agreement" means the individual transfer agreement made between the 'Namgis First Nation and Canada pursuant to subsection 6(1) of the Framework Agreement and subsection 6(3) of the *First Nations Land Management Act*;

"Interest" means an interest, right or estate of any nature in or to a specific parcel or area of 'Namgis First Nation Land, including a Certificate of Possession but does not include title to, or the beneficial interest in, that 'Namgis First Nation Land as set forth in;

"Instrument" means a formal legal written document that provides evidence of an Interest, Certificate of Home Ownership, Easement, Licence, or Permit or

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transaction in relation to 'Namgis First Nation Land that is registered or recorded in the First Nations Land Register;

"**Jurisdiction**" means law-making authority;

"**Land Code**" means this 'Namgis Land Code, including any amendments as may be made from time to time;

"**Lands Department**" means the department of 'Namgis that administers the day to day operations of 'Namgis First Nation Land and this Land Code;

"**Lands Manager**" means the person employed or otherwise engaged by 'Namgis to oversee the day to day operations of the Lands Department and the administration of this Land Code and to sign documents, including Written Instruments, as authorized by Council;

"**Land Management Advisory Committee**" means the committee established under section 36 [*Lands Management Advisory Committee*];

"**Land Use Plan**" means a plan that addresses housing, transportation, parks, economic development, infrastructure, social, cultural, environmental and other needs related to the use and development of 'Namgis First Nation Land;

"**Law**" means any law enacted pursuant to Part 2 [*First Nation Legislation*] of this Land Code;

"**Leasehold**" means an Interest in 'Namgis First Nation Land granted pursuant to this Land Code, or prior to the coming into force of this Land Code granted pursuant to the provisions of the *Indian Act*, including a Sublease, giving a person exclusive right and occupation of a surveyed parcel of 'Namgis First Nation Land, upon agreed conditions, for a specified time and "Lease" is the formal document evidencing the Leasehold;

"**Licence**" means any right of use or occupation in 'Namgis First Nation Land or any right or permit to carry out an activity on 'Namgis First Nation Land, other than an Interest in the land;

"**List of Eligible Voters**" means the list of Eligible Voters prepared by the Electoral Officer pursuant to section 51, as may be amended by the Electoral Officer;

"**Majority**" means fifty percent plus one (50% +1);

"**Meeting of Members**" means a meeting of the Members convened under Part 3 [*Meetings of Members*];

"**Member**" means an individual whose name appears on the 'Namgis membership list;

"**Member Approval**" means an approval made by Eligible Voters in accordance with subsection 10.2 [*Member Approval*];

"**Minister**" means the Minister of Indigenous and Northern Affairs Canada, as representative of Her Majesty the Queen in Right of Canada;

"**Mortgage**" means an Interest in 'Namgis First Nation Lands granted under this Land Code or, prior to the date this Land Code comes into force, granted pursuant to the provisions of the *Indian Act*, in which a person with a registered or recorded Certificate of Home Ownership, Leasehold or Permit (the

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"Mortgagor") transfers their Interest, or a portion of their Interest, or a right to claim against their Interest or their Certificate of Home Ownership to another person (the "Mortgagee"), as security for a debt on conditions set out in a written mortgage agreement including a condition that if the debt is repaid by a specified time the transfer becomes void and the Interest or their right to claim against the Certificate of Home Ownership returns to the Mortgagor;

“**Namgis**” means the “**Namgis First Nation**;

“**Namgis Administrator**” means the ‘**Namgis** staff member appointed by Council to be the person overseeing all ‘**Namgis** departments, including the Lands Manager and the Lands Department and includes the Assistant ‘**Namgis** Administrator who acts as the designate of the ‘**Namgis** Administrator while the ‘**Namgis** Administrator is absent;

“**Namgis First Nation Community Land**” means any ‘**Namgis** First Nation Land not the subject of a Certificate of Possession;

“**Namgis First Nation Land**” means:

- a. The following 8 ‘**Namgis** Indian Reserves that are described in more detail in Annex "G" to the Individual Agreement:
 - i. Alert Bay 1;
 - ii. Alert Bay 1A;
 - iii. Ar-Ce-wy-ee 4;
 - iv. Ches-la-kee 3;
 - v. Ksui-la-das 6;
 - vi. Kuldek dum 7;
 - vii. Nimpkish 2; and
 - viii. O-tsaw-las 5; and
- b. Lands set apart by Canada in the future as lands reserved for the use and benefit of ‘**Namgis**, within the meaning of subsection 91(24) of the Constitution Act, 1867 and subsection 2(1) of the *Indian Act*;

“**Namgis Lands Register**” means the register of ‘**Namgis** First Nation Lands maintained in the Registry;

“**Natural Resources**” means any materials, substances, vegetation or animals found on, under or in ‘**Namgis** First Nation Land, which, when removed, have economic or other value;

“**Ordinarily Resident**” means the place, where in the settled routine of a person’s life, that person regularly, normally or customarily lives;

“**Permit**” means an interest in ‘**Namgis** First Nation Land other than a Leasehold or Easement granted under this Land Code or, prior to the date this Land Code comes into force, granted pursuant to the provisions of the *Indian Act*, giving one person the right to use the land of another for a specified purpose. A Permit does not convey any right of exclusive possession in the land and does not restrict the rights of the grantor of the Permit beyond that required to give effect to the Permit granted;

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“**Public Notice**” means notice given in accordance with section 12 [*Public Notice*];

“**Referendum**” means a referendum conducted amongst the Eligible Voters pursuant to Part 9;

“**Register**” or “**Registration**” means to register in the 'Namgis Land Register as part of the First Nations Land Register;

“**Register of Laws**” means the register of 'Namgis Laws created and kept in accordance with subsection 8.2 [*Register of Laws*];

“**Registry**” means the office known as the First Nation Land Registry located in the National Capital Region that maintains the First Nation Land Register;

“**Resolution**” means a resolution of Council passed at a duly convened meeting of Council;

“**Special Membership Meeting**” means a duly convened special membership meeting of the Members conducted in accordance with section 11;

“**Spouse**” means an individual who is married to another individual, whether by a traditional, religious or civil ceremony, and includes an individual who is cohabiting in a common-law marriage;

“**Sublease**” means a subleased interest in all or a portion of the Leasehold lands conveyed to a sublessee under a lease;

“**Subordinate Legislation**” includes any regulation, policy, procedure, rule, standard, terms of reference or code enacted or approved by Council under this Land Code or Laws;

“**Verifier**” means the person appointed as Verifier under the *Framework Agreement*;

“**Written Instrument**” means an instrument in writing, either in the approved form prepared by the Lands Department or such other form as may be agreed to by the Lands Department, which intended to create, grant, assign or transfer an Interest in 'Namgis First Nation Lands or affect 'Namgis First Nation Lands by way of registration or recording;

“**Youth**” means, for the purpose of the Land Code, any Member who is at least 13 and no more than 18 years of age.

Interpretation

2.2. In this Land Code:

- a. The use of the word shall, will or must denotes an obligation that, unless this Land Code provides to the contrary, must be carried out as soon as practicable after this Land Code comes into effect or in the event that gives rise to the obligation;
- b. Where the time limited for doing 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;
- c. Where the time limited for doing an act falls on a day when the 'Namgis Lands Department office is not open during regular business hours, the act

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may be done on the next day that the 'Namgis Lands Department office is open;

- d. Where there is a reference to a number of days or a number of days between the two events, in calculating that number of days, the days on which the events happen are excluded;
- e. Unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of plural includes the singular;
- f. Unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine;
- g. Unless it is otherwise clear from the context, "including" means "including, but not limited to", and "includes" means "includes, but not limited to";
- h. The headings of parts and sections in this Land Code have been inserted as a matter of convenience and for reference only and in no way define or limit any of its provisions;
- i. This Land Code shall be interpreted in a fair, large and liberal manner;
- j. The principles set out in the Preamble to this Land Code may be used to interpret this Land Code; and
- k. If the meaning of any provision is not clear in English, Kwak'wala may be used to assist in clarifying its meaning.

Paramountcy

- 2.3. If there is an inconsistency or conflict:
- a. between this Land Code and the *Framework Agreement*, the *Framework Agreement* will prevail to the extent of the inconsistency or conflict;
 - b. between this Land Code and any other enactment of 'Namgis, including a by-law enacted under section 81 of the *Indian Act* and any Law or Subordinate Legislation enacted under this Land Code, this Land Code prevails to the extent of the inconsistency or conflict.

Non-abrogation

- 2.4. This Land Code does not abolish, repeal or otherwise abrogate, or detract, diminish or otherwise derogate from, any Aboriginal, Indigenous, treaty or other right or freedom that may pertain now or in the future to 'Namgis or its Members, including, without limitation, rights to land, water, air and Natural Resources.

Rights to services not affected

- 2.5. This Land Code is not intended to affect the eligibility of 'Namgis or any Member to receive services to participate in such public or Aboriginal or Indigenous programs as may be established from time-to-time by Canada or the Province of British Columbia to the extent that 'Namgis has not assumed responsibility for such services or programs.

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Fiduciary Responsibility

- 2.6. This Land Code does not abolish, repeal or otherwise abrogate the fiduciary relationship between Her Majesty the Queen in Right of Canada, 'Namgis and its Members.

Rights Not Affected

- 2.7. Nothing in this Land Code, nor in any of the Laws, policies, procedures or decisions made in accordance with it is intended to change:
- a. the by-law making powers of Council pursuant to section 81 of the *Indian Act* except Laws relating to 'Namgis First Nation Land; or
 - b. any Aboriginal, Indigenous, treaty, inherent or other rights held by 'Namgis or its Members now or in the future.

Lands and Interests Affected

- 2.8. A reference to 'Namgis First Nation Land in this Land Code means all rights and resources in and of the 'Namgis First Nation Land, and includes:
- a. the water, beds underlying water, riparian rights, air rights, minerals and subsurface resources, and all other renewable and non-renewable Natural Resources in and of that land, water or air to the extent that these are under the Jurisdiction of Canada or 'Namgis; and
 - b. all the Interests and Licences granted by Her Majesty in right of Canada listed in the Individual Agreement as subsequently added to the Individual Agreement and falling under the Jurisdiction of this Land Code.

3. Authority to Govern

Aboriginal Rights and Title

- 3.1. The 'Namgis have never ceded, surrendered, or in any way relinquished Aboriginal title to our territory and continue to assert our interests and exercise our Aboriginal rights over our territory.

Protection of Aboriginal Rights

- 3.2. 'Namgis is committed to protecting the Aboriginal rights of 'Namgis and its Members.

Origin of authority

- 3.3. 'Namgis traditional teachings speak of the obligation of the people to care for and respect the land. By enacting this Land Code, 'Namgis further confirms this special responsibility.

Confirmation of authority over 'Namgis First Nation Land

- 3.4. a. By enacting this Land Code, 'Namgis gives effect, to the extent possible under the *First Nations Land Management Act*, to our Aboriginal title to that portion of the territory comprised of 'Namgis First Nation Land.
- b. For greater certainty, this confirmation of authority over 'Namgis First Nation Land is not an admission or acknowledgement that the authority assumed by

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enacting this Land Code represents the full scope of authority of 'Namgis over 'Namgis First Nation Land or the rest of our territory, nor is it intended to otherwise affect 'Namgis or 'Namgis Nation's Aboriginal title to, and rights over the rest of our territory. We maintain that we have complete Jurisdiction over the entirety of our territory and the enactment of this Land Code will not in any way adversely affect that Jurisdiction nor restrict or impede our authority over our territory.

Flow of authority

- 3.5. The authority of the 'Namgis First Nation to govern its lands and resources is an integral part of our Aboriginal title and our inherent right of self-government that flows from the Creator to the Members of 'Namgis, and from the Members to the Chief and Council according to the culture, traditions, customs and laws of 'Namgis.

Legal Capacity

- 3.6. For any purpose related to 'Namgis First Nation Land, 'Namgis shall have the sole legal capacity to acquire and hold property, to borrow, to contract, to expend and invest money, to be a party to legal proceedings, to exercise our powers and perform our duties without any involvement by Canada.

4. Purpose

Purpose

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

Ratification

- 4.2. The *Framework Agreement* will be ratified and confirmed when this Land Code comes into effect.

5. 'Namgis First Nation Land

- 5.1. All 'Namgis First Nation Land is subject to this Land Code.

Additional lands

- 5.2. The following lands may be made subject to this Land Code in accordance with section 5.4 [*Inclusion of lands or Interest*] if they are, or become, reserve lands and the following applicable conditions are met:
 - a. any lands owned jointly by 'Namgis and another First Nation or other First Nations, when all of the First Nations agree upon a joint management scheme for those lands; and
 - b. any land acquired by 'Namgis after this Land Code comes into effect, whether by land claim, land exchange agreement, purchase or other process which 'Namgis wishes to become 'Namgis First Nation Land; and
 - c. the Individual Agreement is amended if required, to reflect that the land falls under the jurisdiction of this Land Code.

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Land exchange

- 5.3. For greater certainty, subsection 5.2 [*Additional lands*] applies to land acquired by land exchange in accordance with subsection 33.1 [*Voluntary Exchange of Namgis First Nation Land*].

Inclusion of lands or Interest

- 5.4. a. When the relevant conditions in subsection 5.2 [*Additional lands*] are met, Council may, by passing a Resolution, declare the lands to be subject to this Land Code and authorizing the amendment of the Individual Agreement to reflect this.
- b. For greater certainty, only Council approval by way of a Resolution is required for amending the description of 'Namgis First Nation Land in subsection 5.1 [*Namgis First Nation Land*] of the Land Code and in the Individual Agreement.

PART 2 – FIRST NATION LEGISLATION

6. Law-Making Powers

Council Powers

- 6.1. The Council may make all Laws that the *First Nations Land Management Act* empowers the Council to enact.

Subordinate Legislation

- 6.2. For greater certainty, in addition to Laws, Council may, by Resolution, enact or approve Subordinate Legislation under this Land Code.

Framework for Legislative Development

- 6.3. The Lands Manager or the Land Management Advisory Committee or both of them, in consultation with Members, shall propose a framework for legislative development to prioritize the development of Laws and Subordinate Legislation for recommendation to Council.

Laws that affect Interests

- 6.4. Subject to Parts 5 and 8, an Interest holder who has acquired their Interest prior to the enactment of this Land Code will be grandfathered with respect to provisions in a Law that would impose a significant economic burden on that Interest Holder or may be exempted from a Law that comes into force after the enactment of this Land Code in cases where 'Namgis has agreed not to enact Laws that will violate a term of an Interest granted after the enactment of this Land Code.

7. Law-Making Procedure

Proposal of Laws to Council

- 7.1. The development of a Law may be proposed at a duly convened meeting of Council by:
 - a. the Lands Management Advisory Committee;

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- b. the Lands Manager; or
- c. another individual or body authorized by Council.

Proposed Laws

- 7.2. a. The development of a Law may be proposed to the Land Management Advisory Committee or the Lands Manager, or both of them, for consideration.
- b. Following consideration of a law proposed under paragraph 7.2.a., the Land Management Advisory Committee or the Lands Manager, or both of them, may choose a representative to present that proposed law to Council in accordance with paragraph a [*Proposed Laws*].

Procedure upon review of proposal

- 7.3. Upon review of a proposal, Council may:
- a. table the proposed law for further review;
 - b. if the proposed Law is in draft form, direct that the Land Management Advisory Committee or the Lands Manager, or both of them, review the proposed law [*Development of draft laws by the Committee*] and consider whether or not to support its presentation to Council;
 - c. request that the proponent provide further information or attend a future meeting of Council to speak to the proposed law;
 - d. direct the development of a draft law concerning matters raised in the proposed law in accordance with sub-section 7.5 [*Direction to develop draft laws*]; or
 - e. decide not to pass the proposed law and provide a written rationale in accordance with subsection 7.4 [*Procedure upon Council declining a proposed law*].

Procedure upon Council declining a proposed law

- 7.4. a. If Council acts under paragraph 7.3.d and decides not to pass the proposed law, it will provide a written rationale which must identify reasons why Council decided to decline the proposed law; and, if Council deems it appropriate, identify any modifications and/or changes that could be made to the proposed law that would increase the likelihood that Council may pass the proposed law.

Direction to develop draft Laws

- 7.5. If Council decides to direct the development of a draft law pursuant to paragraph 7.3.d, Council must:
- a. assign an individual with appropriate training and experience to work with the Land Management Advisory Committee and the Lands Manager to support the process of preparing a draft law; and
 - b. ensure that the Lands Manager and the Land Management Advisory Committee have the appropriate information to oversee the creation of the draft law.

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Presentation to Council

- 7.6. Once a draft law has been developed, the Land Management Advisory Committee, in consultation with the Lands Manager, will consider whether to approve the draft law for presentation to Council.

Tabling and posting of draft laws

- 7.7. Before a draft law may be enacted by Council:
 - a. it may be approved for presentation to Council by a Majority of the Land Management Advisory Committee or the Lands Manager, or both of them, in accordance with subsection 7.6 [*Presentation to Council*];
 - b. it shall be tabled at a duly convened meeting of Council held at least forty-two (42) days before the proposed law is to be enacted; and
 - c. Public Notice of Council consideration of the Law, including a copy of the draft law, shall be given at least thirty-five (35) days before the proposed law is to be enacted.

Urgent Matters

- 7.8. Council may enact a Law without the involvement of the Land Management Advisory Committee, or the preliminary steps required under subsections 7.7 and 7.10 [*Tabling and Posting of Proposed Laws and Approval of Laws*], if Council is of the opinion that the Law is needed urgently for public health and safety, to protect 'Namgis or its Members or further an economic objective that is for the benefit of 'Namgis.

Expiration

- 7.9. A Law enacted under section 7.8 [*Urgent Matters*] expires one hundred and twenty (120) days after its enactment unless it is re-enacted in accordance with subsections 7.7 through 7.12.

Approval of Laws

- 7.10. A Law is enacted if it is approved by a Majority of Council at a duly convened meeting of Council after the requirements of subsection 7.7 [*Tabling and posting of draft laws*] or subsection 7.8 [*Urgent Matters*], as applicable, have been complied with and the law has been approved by the Members at a Special Membership Meeting.

Certification of Laws

- 7.11. The original copy of any Law or Resolution shall be signed by a quorum of Council present at the meeting at which the Law was enacted or the Resolution was passed.

Coming into Force

- 7.12. A Law takes effect on the date of its enactment or such date as may be specified in the Law.

Subordinate Legislation

- 7.13. If a Law provides for the enactment of Subordinate Legislation on specific topics:

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- a. Council may, by Resolution, initiate the development of Subordinate Legislation;
- b. Council will, consult with Members regarding proposed Subordinate Legislation;
- c. Council may direct that the Lands Advisory Management Committee and Lands Manager oversee the development of Subordinate Legislation;
- d. Council may seek a recommendation from the Land Advisory Management Committee and Lands Manager with respect to any draft Subordinate Legislation; and
- e. Unless otherwise stated in the Subordinate Legislation, the Subordinate Legislation is enacted and comes into force on the date that it is approved and adopted by Resolution following consultation with the Members.

8. Publication of Laws

Publication of Laws

- 8.1. Laws pursuant to this Land Code shall be:
- a. included in the minutes of the Council meeting at which they were enacted;
 - b. posted in a location within the administrative office of 'Namgis accessible to Members, as soon as practicable after enactment and for a period of not less than thirty (30) days thereafter;
 - c. made publicly available on the 'Namgis website;
 - d. recorded in the 'Namgis Land Register, if the Registry permits it, and shall also be published in the First Nations Gazette; and
 - e. posted or publicized by any other additional method as Council may consider appropriate.

Register of Laws

- 8.2. The Lands Department shall keep, at the administrative buildings of 'Namgis, a register of the original copy of all Laws and Subordinate Legislation, including Laws that have been repealed or are no longer in force.

PART 3 – MEETINGS OF MEMBERS AND APPROVALS

9. Meetings of Members

Participation of Eligible Voters

- 9.1. Every Eligible Voter is entitled to participate in the Member Approval process set out in this Part 3 [*Meetings of Members and Approvals*] of this Land Code.

Participation of Members

- 9.2. Every Member may participate in a Meeting of Members in accordance with standard procedures.

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Meetings of Members

- 9.3. A Meeting of Members is a meeting that is duly convened in accordance with subsection 9.5 [*Convening a Meeting of Members*] for:
 - a. information sharing with Members; and
 - b. discussion by or gathering input from Members.

Procedures for Meeting of Members

- 9.4. Council may call a Meeting of Members by way of a Public Notice or by such other means as Council deems advisable.

Convening a Meeting of Members

- 9.5. At least thirty (30) days before a Meeting of Members, Council shall provide Public Notice of the Meeting of Members, which shall include:
 - a. the date, time and place of the meeting;
 - b. a brief description of the matters to be discussed;
 - c. an indication of whether non-Members may attend; and
 - d. such other information and material as Council may consider appropriate.
- 9.6. Despite subsection 9.5, in the case of emergency or special circumstances where a delay in consideration of the matter is not in the best interests of 'Namgis, Council may call a Meeting of Members with less than thirty (30) days' notice, provided:
 - a. notice is delivered in accordance with section 12 [*Public Notice*]; and
 - b. direct phone calls are made to all Elders for whom 'Namgis administration has phone numbers.
- 9.7. When convening a Meeting of Members, Council should make every effort to provide an additional reminder of the time, location and topic of the meeting, in whatever methods deemed appropriate, according to the following timelines:
 - a. fourteen (14) days before the meeting; and
 - b. four (4) days before the meeting.

When Meeting of Members Required

- 9.8. Council shall call a Meeting of Members prior to passing a Law and before the holding of a Special Membership Meeting to vote on the proposed law:

Meeting with interest groups prior to Meeting of Members

- 9.9. Prior to calling a Meeting of Members required in subsection 9.8 [*When Meetings of Members Required*], the Lands Management Advisory Committee along with the Lands Manager will make reasonable efforts to meet with:
 - a. Youth;
 - b. Elders; and
 - c. any other interest group, as deemed necessary by Council.

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In-camera Meeting of Members

9.10. A Member may, at any time before or during a Meeting of Members, request that the meeting be held in-camera for any Members or their Spouses however the ultimate decision will be left to the chairperson. If the meeting is restricted to only Members and their Spouses, only Members are entitled to participate in the meeting.

10. Member Approval

Voting Polices

10.1. Member Approval shall be obtained by way of a vote held at a Special Membership Meeting except in those cases where Council has the authority to make the decision or the matter must be decided by way of a Referendum.

Member Approval

10.2. Member Approval shall be obtained for the enactment of any proposed laws or making an amendment to this Land Code, except minor amendments that do not change the substance of this Land Code, such as the correction of typographical errors or rectifying inconsistencies.

11. Special Membership Meeting

11.1. This section only applies to Special Membership Meetings held in accordance with this Land Code.

11.2. A Special Membership Meeting shall be held:

- a. where called by Resolution; or
- b. as required under this Land Code.

11.3. The date, time and place for a Special Membership Meeting shall be determined by Council.

11.4. Notice of the date, time, place and subject matter of the Special Membership Meeting shall be provided to each Council member, unless a Council member cannot be reached, having undertaken reasonable due diligence, and by way of Public Notice.

11.5. All Special Membership Meetings shall take place on 'Namgis First Nation Community Land, unless Council has passed a Resolution authorizing the meeting to take place off 'Namgis First Nation Community Land and explaining the reasons why that meeting must, or should, take place off 'Namgis First Nation Community Land.

11.6. Council members shall attend all Special Membership Meetings unless they have just cause for being absent.

11.7. Council members shall notify Council at a Council meeting or notify the 'Namgis Administrator of any anticipated absence and the reasons for such absence.

11.8. Where notification under subsection 11.9 is given to the 'Namgis Administrator, the 'Namgis Administrator shall inform the other Council members of the absence and the reasons given by that member of Council.

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- 11.9. If the Council member is absent from a Special Membership Meeting, the chairperson shall, if requested by a Member, inform the meeting of the reason for the Council member's absence.
- 11.10. A quorum of Council is not required to attend a Special Membership Meeting.
- 11.11. Council may, at a Council meeting prior to a Special Membership Meeting, by Resolution of a quorum of Council, determine that in the community interest a Special Membership Meeting shall only be open to Members and their Spouses and to employees of 'Namgis, and any consultants or legal counsel to 'Namgis, whose attendance is requested by Council to inform the Members on a specific matter.
- 11.12. Unless otherwise permitted by Council, only Members, non-Member Spouses and employees of 'Namgis, and any consultants or legal counsel to 'Namgis whose attendance is requested by Council, may attend Special Membership Meetings and only Members may participate in the Special Membership Meetings.

12. Public Notice

Methods of Public Notice

- 12.1. For all matters requiring Public Notice under this Land Code, notice shall be given to members by the following means:
 - a. written notice posted in at the 'Namgis administration building; the 'Namgis community services building, the 'Namgis Health Centre, the 'Namgis Elders Centre, the 'Namgis Council Hall, and such other places as Council decides;
 - b. posting on the 'Namgis website; and
 - c. where the 'Namgis administration has an email address for a Member, by email.
- 12.2. At the discretion of Council, the following methods may also be used to provide Public Notice:
 - a. where the 'Namgis administration has a phone number for a Member, by automated phone call to that number;
 - b. direct phone calls to Members;
 - c. direct phone calls to Elders;
 - d. information package mail-out;
 - e. posting on social media;
 - f. door-to-door campaign on 'Namgis First Nation Land;
 - g. in-person meetings with identified interest groups; and
 - h. any other method deemed necessary by Council.

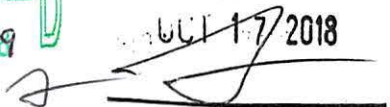
Contents of Public Notice

- 12.3. Any Public Notice distributed to the Members should be written in plain language.

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PART 4 – CERTIFICATES OF HOME OWNERSHIP, INTERESTS, EASEMENTS, LICENCES AND PERMITS IN 'NAMGIS FIRST NATION LAND

13. Standards and Written Instruments

- 13.1. Council may, in consultation with the Lands Management Advisory Committee and the Lands Manager, institute policies, processes and criteria for:
 - a. granting Certificates of Home Ownership, Interests, Easements, Licences and Permits in 'Namgis First Nation Land; and
 - b. forms, including Written Instruments, in respect of Certificates of Home Ownership, Interests, Easements, Permits and Licences in 'Namgis First Nation Land.
- 13.2. Interests in 'Namgis First Nation Land approved, created, granted or issued pursuant to the *Indian Act* and existing as of the date that this Land Code comes into force shall continue to have effect in accordance with their terms and conditions.
- 13.3. Where an Interest, Easement, Licence or Permit includes an action to be taken by the Minister or Her Majesty the Queen in Right of Canada before this Land Code comes into force the responsibility for such action after the date this Land Code comes into force shall be with Council, or if delegated by Council, the Lands Manager or his or her designate.
- 13.4. The types of Interests in 'Namgis First Nation Community Land are:
 - a. Certificates of Possession;
 - b. Leaseholds;
 - c. Easements;
 - d. Permits; and
 - e. Mortgages.

14. Existing Interests

Continuation of existing Interests

- 14.1. Any legally valid Interest or Licence in 'Namgis First Nation Land existing when this Land Code takes effect will, subject to this Land Code and any Laws passed under it, continue in force in accordance with its terms and conditions.

Voluntary Replacement of Existing Interests or Licences

- 14.2. For greater certainty, Interests or Licences previously issued under the *Indian Act* shall continue in effect after the coming into force of this Land Code unless the Member or non-Member voluntarily agrees to have the Interest or Licence replaced by a new Interest or Licence.

Transfer of Certificate of Possession

- 14.3. a. An individual who ceases to be a Member shall, within six months of ceasing to be a Member, transfer any Certificate of Possession they hold to 'Namgis or another Member.

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- b. Where an individual ceases to be a Member and fails to transfer their Certificate of Possession within six months, the Certificate of Possession shall automatically be cancelled and the subject 'Namgis First Nation Land shall automatically become 'Namgis First Nation Community Land.

15. No Interest Created


- 15.1. Subject to subsection 13.2, an Interest in 'Namgis First Nation Land may only be created, granted, assigned or transferred by Written Instrument in accordance with this section or a Law provided for in this Land Code.
- 15.2. No person may acquire an Interest in 'Namgis First Nation Land by use, occupation or any other means not authorized under this Land Code or a Law.
- 15.3. A contract, instrument or agreement of any kind entered into after the date this Land Code comes into force, whether written or oral, by which a person or entity purports to create, grant, assign or transfer an Interest in 'Namgis First Nation Land is void if it does not comply with this Land Code or a Law.
- 15.4. No Written Instrument is valid nor shall it be forwarded to the Registry for registration or recording unless it has first been submitted to the Lands Manager or his or her designate at the Lands Department. Only the Lands Department may submit a Written Instrument for registration or recording in the 'Namgis Land Register.

16. Leasehold in 'Namgis First Nation Community Land

- 16.1. A Leasehold in 'Namgis First Nation Community Land for a term or possible term of fifteen (15) years or less, calculated by including any renewal or extension period, may be granted by Resolution.
- 16.2. Where 'Namgis proposes to grant a Leasehold in 'Namgis First Nation Community Land for a term or possible term of more than fifteen (15) years, calculated by including any renewal or extension period, but not more than forty-nine (49) years, Council shall schedule a Special Membership Meeting to decide whether the Leasehold should be granted.
- 16.3. Notice of the Special Membership Meeting shall be given to the Members at least twenty (20) days before the Special Membership Meeting and shall include:
 - a. a summary of the proposed Lease;
 - b. notification that a full copy of the proposed Lease, subject to any further non-substantive amendments, can be obtained by Members at the 'Namgis administration building or at the Special Membership Meeting;
 - c. a statement that there will be a vote by secret ballot of the Eligible Voters present at the Special Membership Meeting to make a decision on whether or not to grant the proposed Leasehold; and
 - d. the date, time and place of the Special Membership Meeting also specifying the time period during which voting will take place.
- 16.4. Public Notice of the Special Membership Meeting shall be provided to the Members.

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- 16.5. At the Special Membership Meeting, those members of Council or their designate shall explain the purpose and provisions of the proposed Lease and Members may ask questions and provide comments.
- 16.6. Upon completion of the discussion, the Eligible Voters, including Council members, present at the Special Membership Meeting shall vote by secret ballot on whether or not to grant the proposed Leasehold.
- 16.7. The granting of a Leasehold described in subsection 16.2 shall be deemed authorized if a Majority of the Eligible Voters present at the Special Membership Meeting vote in favour of granting the proposed Leasehold.
- 16.8. The decision at the Special Membership Meeting shall be recorded in the minutes and shall be evidence of the approval for granting the proposed Leasehold or rejecting the granting of the proposed Leasehold.
- 16.9. Where the proposed Leasehold is for a term or possible term longer than forty-nine (49) years, calculated by including any renewal or extension period, the proposed Leasehold must be approved by Referendum.
- 16.10. The granting of a Leasehold for a term, or possible term, longer than forty-nine (49) years shall be deemed authorized if approved by the Referendum.
- 16.11. The results of the Referendum held under subsection 16.9 shall be evidence of approval for granting the proposed Leasehold or rejection of the proposed Leasehold.
- 16.12. The granting of a Leasehold does not grant any interest in the Natural Resources on or under the land described in the Leasehold unless specifically included in the terms and conditions of the Leasehold.

17. Easements, Licences, and Permits in 'Namgis First Nation Community Lands

- 17.1. Council may, by Resolution, grant Easements, Licences and Permits in 'Namgis First Nation Community Land.
- 17.2. Council may, by Resolution, grant Easements, Licences and Permits to utility companies or entities, or partnership including limited partnership, corporations and other entities in which 'Namgis has an economic interest, or for a Community Purpose for such length of term as Council, in its absolute discretion, deems appropriate. The granting of such Easements, Licences and Permits are not subject to the procedures set forth in section 17.3 through 17.11.
- 17.3. Subject to subsection 17.2, where 'Namgis proposes to grant an Easement, Licence or Permit in 'Namgis First Nation Community Land for a term, or possible term, of more than fifteen (15) years, calculated by including any renewal or extension period, Council shall schedule a Special Membership Meeting to consider whether the proposed Easement, Licence or Permit should be granted.
- 17.4. Public Notice of the Special Membership Meeting shall be given to the Members at least twenty (20) days before the Special Membership Meeting and shall include:
 - a. a summary of the proposed Easement, Licence, or Permit;
 - b. notification that a full copy of the proposed Easement, Licence or Permit, subject to any non-substantive changes being made, can be obtained by Members at the 'Namgis administration building;

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- c. a statement that there will be a vote by secret ballot of the Eligible Voters at a Special Membership Meeting to make a decision on whether or not to grant the proposed Easement, Licence or Permit; and
 - d. the date, time and place of the Special Membership Meeting also specifying the time period during which voting will take place.
- 17.5. At the Special Membership Meeting the Council members present or their designate, shall explain the purpose and provisions of the proposed Easement, Licence or Permit and Members may ask questions and provide comments.
- 17.6. Upon completion of the discussion, the Eligible Voters, including Council members, present at the Special Membership Meeting shall vote by secret ballot on whether or not to grant the proposed Easement, Licence or Permit.
- 17.7. The granting of an Easement, Licence or Permit shall be deemed authorized if a Majority of the Eligible Voters present at the Special Membership Meeting vote in favour of granting the proposed Easement or Permit.
- 17.8. The decision at the Special Membership Meeting shall be recorded in the minutes and shall be evidence of approval for granting the proposed Easement, Licence or Permit or rejecting granting the proposed Easement, Licence or Permit.
- 17.9. Where the proposed Easement, Licence or Permit is for a term, or possible term, longer than forty-nine (49) years, calculated by including any renewal or extension period, the proposed Easement, Licence or Permit must be approved by Referendum.
- 17.10. The granting of an Easement, Licence or Permit for a term, or possible term, longer than forty-nine (49) years shall be deemed authorized if approved by the Referendum.
- 17.11. The results of the Referendum held under subsection 17.9 shall be evidence of approval for granting or rejecting the proposed Easement, Licence, or Permit.

18. Certificate of Home Ownership

- 18.1. Council may grant a Certificate of Home Ownership to a Member or Members provided that Member or Members have paid for the house in full or, if Council agrees, that Member or Members agree in writing to make payments in accordance with a schedule decided upon by Council failing which Council may cancel the Certificate of Home Ownership without recourse by the Member or Members but subject to any rights of a Mortgagee.

19. Mortgages

- 19.1. Subject to subsection 19.3 the holder of a Leasehold or Certificate of Home Ownership may, in accordance with this section, grant a Mortgage of that Leasehold or Certificate of Home Ownership with the written consent of Council.
- 19.2. The holder of a Licence, Permit or Easement cannot grant a Mortgage.
- 19.3. A Mortgage may be granted by Written Instrument registered in the 'Namgis Lands Register provided that:

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- a. the granting of the Mortgage and the terms of the Mortgage are permitted by the provisions of the Certificate of Possession, Certificate of Home Ownership or Lease;
 - b. there is proper legal description of lands that are to be subject to the Mortgage and, if required, the lands have been surveyed and the survey registered or recorded in the 'Namgis Lands Register;
 - c. in the case of a Mortgage of a Leasehold, the Mortgage term does not exceed the duration of the Leasehold;
 - d. The Council has consented in writing to the Mortgage if it is in relation to 'Namgis First Nation Community Lands.
- 19.4. Neither the Lands Department nor the Lands Manager shall be responsible or liable for ensuring that the Lease permits the interest in the land to be mortgaged, that the Lease is in good standing or its terms have been complied with.
- 19.5. A Mortgagee shall have the right to exercise all of its rights under the Mortgage, including the right to take the place of the Mortgagor under the Lease, notwithstanding Section 89 of the *Indian Act*.

20. Transfer of Interest

- 20.1. Subject to subsection 20.2, a Member may, by a Written Instrument registered in the Register, transfer their Certificate of Possession.
- 20.2. A Member may only transfer their Certificate of Home Ownership or Certificate of Possession to another Member or 'Namgis.
- 20.3. Where a Certificate of Possession is transferred to 'Namgis other than solely for the purposes of the Certificate of Possession Holder being granted a Mortgage, the Certificate of Possession is cancelled and the 'Namgis First Nation Land described in the Certificate of Possession become 'Namgis First Nation Community Land.
- 20.4. Subject to subsection 20.5, a person or entity holding an Interest in 'Namgis lands other than by way of Certificate of Possession may transfer, assign or devise their interest to any person or entity by a Written Instrument registered in the 'Namgis Lands Register.
- 20.5. A Member or 'Namgis holding a Mortgage of a Certificate of Possession can only transfer or assign that Mortgage to another Member or 'Namgis.

21. Cancellation

Cancellation of Interests and Licences

- 21.1. Council may by Resolution, upon receiving compelling evidence or subject to an applicable ruling by a court of competent jurisdiction, confirm, cancel, discharge, amend or correct any Interest or Licence issued or allotted in error or by fraud or that has expired.

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22. Natural Resources

Ownership of Natural Resources

22.1. Subject to applicable Laws and more specific provisions in this Land Code, all Natural Resources on or under 'Namgis First Nation Land belong to the 'Namgis First Nation.

Development of Natural Resources

22.2. The use and development of Natural Resources on or under 'Namgis First Nation Land shall be subject to this Land Code, and other applicable Laws.

Management of Natural Resources

22.3. To the extent that 'Namgis has ownership or rights over water as recognized by federal or provincial legislation or by operation of law or due to its Aboriginal rights, including title, 'Namgis First Nation retains ownership and has jurisdiction to manage and regulate air, water and Natural Resource use.

Natural Resources and Interests in Land

22.4. Unless specifically included by an Instrument granting any new Interest, the Interest does not include any right to any Natural Resources on or under that 'Namgis First Nation Land.

Prohibition on removal of Natural Resources

22.5. No person may remove, or permit anyone to remove from 'Namgis First Nation Land, without written consent of Council or its authorized designate or in accordance with more specific legislation:

- a. minerals, stone, sand, gravel, clay or soil;
- b. trees, saplings, shrubs, underbrush, timber, cordwood or hay;
- c. water; or
- d. similar type materials.

23. Transfer and Assignment of Interests

Transfer and assignment of Interests or Licences

23.1. A Member may transfer or assign an Interest or Licence in 'Namgis First Nation Land to another Member in compliance with this Land Code and applicable Laws.

Consent of Council

23.2. All transfers or assignments of an Interest or Licence in 'Namgis First Nation Land require the written consent of Council on the advice of the Lands Manager, except for:

- a. transfers under subsection 23.1 [*Transfer and assignment of Interests or Licences*];
- b. transfers that occur by operation of law, including transfers of estate by testamentary disposition; and

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- c. transfers that are specifically exempted in a Law.

Review of Interests or Licences

23.3. For transactions under this section:

- a. Council, the Lands Manager, and the Lands Management Advisory Committee are not obligated to undertake any investigations or due diligence and will not be responsible or liable for any breaches of those provisions for any representation or warranty made by the individual granting the Interest or Licence; and
- b. without restricting the generality of paragraph 23.3.a. [*Review of Interests or Licences*], neither 'Namgis, the Lands Department, 'Namgis First Nation staff, the Lands Manager nor the Lands Management Advisory Committee shall be responsible for determining whether an Interest, Easement, Licence or Permit is in good standing or the terms have been complied with.

24. Non-Application of Indian Act Provisions

24.1. On the coming into force of this Land Code the provisions of the *Indian Act* set forth in section 38 of the First Nations Land Management Act will no longer apply.

25. 'Namgis Lands Register

- 25.1. Certificates of Home Ownership, Interests, Easements, Licences or Permits in, and Written Instruments which affect, or purport to affect, 'Namgis First Nation Land shall be registered or recorded in the 'Namgis Lands Register.
- 25.2. Notwithstanding subsection 25.1 only those Written Instruments that are in compliance with this section can be registered or recorded in the 'Namgis Lands Register.
- 25.3. A copy of all Written Instruments that are submitted for registration or recording in the 'Namgis Lands Register will be kept at the Lands Department.
- 25.4. Subject to this section, the First Nations Land Management Act and any regulations passed pursuant to that Act, the 'Namgis Lands Register shall be administered in the same manner as the Reserve Land Register established under the *Indian Act*.
- 25.5. The 'Namgis Lands Register shall accommodate the registration of Interests and the recording of Written Instruments pursuant to subsection 25.9 not accommodated specifically by the *Indian Act*, in accordance with criteria or procedures to be agreed upon by Canada and 'Namgis.
- 25.6. Transactions dealing with Interests in 'Namgis First Nation Lands, or affecting 'Namgis First Nation Lands, shall be filed with the Lands Department and once verified as technically complying with this section and 'Namgis Law shall be forwarded to the 'Namgis Lands Register for registration or recording.
- 25.7. No Written Instrument that requires a Resolution, approval of the Lands Manager or his or her designate or approval by Eligible Voters at a Special Membership Meeting or in a Referendum may be registered or recorded unless evidence of that Resolution, approval or Referendum result is attached to the Written Instrument.

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- 25.8. Surveys prepared in accordance with section 28 may, subject to Laws and other applicable law, be registered or recorded in the 'Namgis Lands Register subject to the approval of the form and content of same by the Lands Department.
- 25.9. Financial claims or other assertions of right which affect, or purport to affect, 'Namgis First Nation Lands may, in accordance with Laws and other applicable law, be recorded in the 'Namgis Lands Register subject to the approval of the form and content of same by the Lands Department.
- 25.10. The types of Written Instruments which may be recorded in the 'Namgis Lands Register under subsection 25.9 include, but are not limited to, Written Instruments relating to:
 - a. Certificates of Home Ownership;
 - b. assignments of rent;
 - c. caveats;
 - d. certificates of pending litigation;
 - e. court orders;
 - f. judgments;
 - g. Licences;
 - h. liens;
 - i. options to purchase;
 - j. rights of first refusal;
 - k. tax certificates;
 - l. written decisions of the Minister or his or her designate, and
 - m. such other Written Instruments as may be approved by Council by Resolution.

The recording of such instruments, or other instruments, is subject to approval by the Lands Manager and the Registrar of the Registry.

- 25.11. Recording under subsection 25.10 shall not be deemed to be support for the legal validity of any claims nor the ability to take execution or other proceedings as a result of recording.

26. Date of Grant or Transfer of Interest

- 26.1. The grant, transfer or other disposition of an Interest in 'Namgis First Nation Lands shall be effective on the date the documents are registered in the 'Namgis Lands Register.
- 26.2. An Interest or Licence in 'Namgis First Nation Lands is not enforceable unless it is registered or recorded in the 'Namgis Lands Register. This section is not meant to preclude *in personam* rights or causes of action that may be pursued by one party as against another party for a claim in relation to an interest in 'Namgis First Nation Land.
- 26.3. Subject to subsection 26.2, registered or recorded Interests and Licences that affect the same parcel of 'Namgis First Nation Land have priority according to the

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time and date of their registration or recording and not according to the time and date of their execution.

27. Duties of the Lands Manager

- 27.1. The Lands Manager shall ensure that a true copy of each of the following is recorded in the 'Namgis Lands Register:
 - a. every Law, Land Use Plan, subdivision plan and natural resource use plan; and
 - b. this Land Code and any amendment to this Land Code.

28. Surveys

Conduct of Surveys

- 28.1. a. 'Namgis may cause or require surveys to be made of 'Namgis First Nation Land.
- b. Unless otherwise directed by Resolution, all surveys must be carried out in accordance with the *Canada Lands Surveys Act and the Canada Lands Surveyors Act*.

Initiation of Surveys

- 28.2. The holder of an Interest, Easement, Licence or Permit in or on 'Namgis First Nation Land may only cause surveys to be made of those lands with the concurrence of the Lands Manager, acting reasonably.

Approved surveys deemed accurate

- 28.3. Unless otherwise directed by Council in writing, all surveys of 'Namgis First Nation Land approved or confirmed by the Surveyor General of Canada and his or her designate shall be deemed for all purposes to accurately describe and identify the extent of the lands covered by each survey.

Selection of Surveyor

- 28.4. Any surveyor must be a licenced member in good standing with the Association of Canada Lands Surveyors.

Authority of Surveyor

- 28.5. With written permission from 'Namgis, the surveyor has the right to enter any 'Namgis First Nation Land for the purpose of installing control survey markers. A person entering lawfully occupied lands under this section must provide written notice to the person occupying the land.

Approval of Surveys

- 28.6. Council must approve any survey made of 'Namgis First Nation Land prior to the plan being submitted for recording the Canada Lands Survey Records and the First Nations Land Register.

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Surveys coming into effect

- 28.7. A survey respecting 'Namgis First Nation Land shall only become effective upon being registered or recorded in the First Nations Land Register.

29. Transfers on Death

Wills and estates

- 29.1. Unless and until 'Namgis is provided Jurisdiction in relation to wills and estates, the provisions of the *Indian Act* dealing with wills and estates shall continue to apply with respect to Interests in 'Namgis First Nation Land.

Transfer of Interest

- 29.2. A person who receives an Interest in 'Namgis First Nation Land by testamentary disposition or succession in accordance with the law, or a written decision of the Minister, or his or her designate, pursuant to the *Indian Act*, is entitled to have that Interest registered in the 'Namgis Land Register.

PART 5 – PROTECTION OF LAND

30. Environment and Cultural Heritage Resources

Interim use of Canadian Environmental Assessment Act

- 30.1. Until Council enacts environmental assessment and protection laws, it shall conduct an assessment process in respect of every project on 'Namgis First Nation Land that requires an assessment under the *Canadian Environmental Assessment Act* consistent with the requirements set out in Annex 'F' of the Individual Agreement.

Interim use of British Columbia Heritage Conservation Act

- 30.2. Until Council enacts a cultural heritage resource protection Law, it shall follow the *British Columbia Heritage Conservation Act* or other applicable legislation.

31. Prohibited Activities

Prohibited activities

- 31.1. Subject to any Law with more specific provisions all of the following are prohibited on 'Namgis First Nation Land:
- a. dumping, spilling, discharging, releasing or depositing any substance, liquid or gas, that is noxious, hazardous, polluting, deleterious or harmful to human health or the environment;
 - b. any other activities resulting in contamination on 'Namgis First Nation Land or contaminants affecting the Natural Resources on 'Namgis First Nation Land; and
 - c. any activities that have the potential to damage or otherwise impact any 'Namgis cultural sites or artifacts, including culturally modified trees.

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32. Expropriation – Taking Land for Community Purposes

Rights to Expropriation

32.1. The right of 'Namgis to expropriate can only be exercised after a good faith effort to acquire, by mutual agreement with the Interest, Easement, Licence or Permit holder, the Interest, Easement, Licence or Permit in 'Namgis First Nation Land rather than by Expropriation.

Guidelines for Expropriation

32.2. An Interest in or Easement, Licence or Permit in respect of 'Namgis First Nation Land, or in any building or other structure on that 'Namgis First Nation Land, may only be expropriated by 'Namgis in accordance with:

- a. any Law enacted for the purpose of establishing the rights and procedures for Expropriations; and,
- b. the Framework Agreement.

Situations allowing for Expropriation

32.3. An Expropriation by 'Namgis shall only be carried out for Community Purposes.

Rules and procedures for Expropriation

32.4. Before proceeding to make any Expropriations in accordance with this Land Code and the Framework Agreement, Council shall, in consultation with the Lands Management Advisory Committee and the Lands Manager, enact a Law respecting the rights and procedures for Expropriations, including provisions respecting:

- a. the taking of possession of the Interest or Easement, Licence or Permit area or a portion thereof;
- b. transfer of the Interest or Easement, Licence, Permit or a portion thereof;
- c. notice of Expropriation and service of the notice of Expropriation;
- d. ensuring that no other similar and suitable land is reasonably available;
- e. ensuring that any taking is in the smallest amount of land and for the shortest period of time necessary to reasonably meet the need for which the land or Interest is required;
- f. entitlement to compensation;
- g. determination of the amount of compensation; and
- h. the method of payment of compensation.

Notification of Expropriation

32.5. a. In the case of an Expropriation of an Interest in, Easement, Licence or Permit 'Namgis First Nation Land, any affected person or persons shall receive notification of the Expropriation, including the specific interest(s) to be expropriated and the reasons for the Expropriation.

b. The notification of Expropriation must be delivered:

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- i. within seven (7) days after the confirmation of the need for Expropriation by Council; and
- ii. at least seven (7) days prior to the release of the Public Notice referred to in subsection 32.6 [*Public Notice of Expropriation*].

Public Notice of Expropriation

32.6. Public Notice of an Expropriation must be given at least 30 days prior to the Expropriation.

Compensation for Expropriation

32.7. 'Namgis shall, in accordance with its Laws and the Framework Agreement pay fair, and reasonable compensation to the holders of the Interest, Easement, Licence or Permit being expropriated.

Resolution of disputes

32.8. The resolution of disputes concerning the right of 'Namgis to expropriate shall be determined by neutral evaluation, in the same manner as provided in Part IX of the Framework Agreement, with any modifications necessary to fit the parties involved in the Expropriation, and the sixty (60) day period referred to in subsection 32.6 of the Framework Agreement shall be applied, as appropriate in the circumstance, by the neutral evaluator.

32.9. The resolution of the following disputes shall be determined by arbitration, in the same manner as provided in Part IX of the Framework Agreement, with any modifications necessary to fit the parties involved in the Expropriation:

- a. disputes concerning the right of a holder of an expropriated Interest or Easement, Licence or Permit holder to compensation; and
- b. disputes concerning the amount of the compensation.

33. Voluntary Exchange of 'Namgis First Nation Land

Voluntary exchange of Land

33.1. 'Namgis may agree with another party to exchange a parcel of 'Namgis First Nation Land for a parcel of land from that other party, and for other compensation or consideration in accordance with this Land Code and the Framework Agreement.

Member Approval of land exchange

33.2. A land exchange is of no effect unless it receives Member Approval pursuant to a Referendum conducted pursuant to Part 9 of the Land Code and with subsection 14.2 of the Framework Agreement.

Oversight of land exchange

33.3. The Lands Manager along with the Lands Management Advisory Committee will oversee the land exchange process.

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Consideration of land exchange

- 33.4. Subject to subsection 33.6, the land exchange may not occur unless the land to be received in the exchange meets the following conditions:
 - a. it shall be equal to or greater than the area of the 'Namgis First Nation Land to be exchanged;
 - b. it shall be at least comparable to the value of the 'Namgis First Nation Land; and
 - c. at least the amount of land required under paragraph 33.4a shall become, or be added, as 'Namgis reserve lands and thence be 'Namgis First Nation Land subject to this Land Code as soon as is reasonably practicable after the exchange.

Appointment of negotiator for land exchange

- 33.5. Council will, after considering the recommendation of the Lands Management Advisory Committee and the Lands Manager, designate, by Resolution, a person or entity with authority to negotiate the terms of a land exchange agreement on behalf of 'Namgis.

Negotiation of land exchange

- 33.6. 'Namgis may negotiate to receive other compensation, such as money or additional lands, in addition to the lands referred to in section 33.4. [*Voluntary exchange of Land*] which are intended to become reserve lands. Such lands may be held by 'Namgis or an entity controlled by, or beneficially owned by, 'Namgis in fee simple or some other manner.

34. Planning

Land Use Plan

- 34.1. As soon as is practicable after this Land Code takes effect, Council shall, in consultation with the Lands Management Advisory Committee and the Lands Manager, establish legislation or policies in respect of land use planning.

PART 6 – LAND ADMINISTRATION

35. General

Administration

- 35.1. Council shall hire, contract with, or appoint a Lands Manager to oversee land administration and the implementation of this Land Code.

Delegation

- 35.2. Notwithstanding subsection 35.1 [*Administration*], the Council may, by enacting a Law or Subordinate Legislation or by Resolution, delegate administrative authority in relation to this Land Code or a Law to an individual or body established or authorized under this Land Code or pursuant to a Law.

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Exercise of duties

35.3. Any power, authority or discretion exercised by the Council, the Land Management Advisory Committee and Lands Manager or other individual or body established or authorized under this Land Code must be exercised on behalf of, and for the benefit and protection of 'Namgis.

36. Lands Management Advisory Committee

Purpose

- 36.1. The purpose of the Lands Management Advisory Committee is to:
- a. assist with the development of the land administration system;
 - b. advise Council and 'Namgis staff on matters respecting 'Namgis First Nation Land;
 - c. recommend to Council Laws, Resolutions and Subordinate Legislation respecting 'Namgis First Nation Land;
 - d. assist in the flow of information on land issues between Members and Council;
 - e. assist with oversight and support to all other engagement processes targeted to the Members under this Land Code;
 - f. assist in the development of Laws created under this Land Code in accordance with subsection 7.6 [*Presentation to Council*];
 - g. assist with Member Approvals under this Land Code;
 - h. assist with other consultations under this Land Code; and
 - i. perform other duties and functions that are ancillary to the powers, duties and functions set out in this Land Code or Subordinate Legislation or as Council may direct.

Internal procedures

36.2. The Lands Management Advisory Committee may establish rules and procedures for the conduct of its meetings and general affairs, provided that any such rules and procedures are not inconsistent with this Land Code or any rules and procedures established by Council.

37. Membership of the Lands Management Advisory Committee

Composition

- 37.1. The Lands Management Advisory Committee shall be composed of an uneven number of no less than five (5) and no more than seven (7) members, including the Chair.
- 37.2. Reasonable efforts will be made to have the Lands Management Advisory Committee consist of:
- a. at least one (1) Elder;
 - b. at least one (1) Youth;

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- c. a representative appointed by the Hereditary Chiefs, if there is a consensus by the Hereditary Chiefs; and
 - d. at least one (1) member of the 'Namgis staff or a consultant, or both;
- however, Council reserves the right to appoint other persons to the Lands Management Advisory Committee.

Lands Manager as ex officio Committee member

- 37.3. The Lands Manager, or another member of the 'Namgis administration, may serve as an ex officio member of the Lands Management Advisory Committee.
- 37.4. For greater certainty, an ex officio member is not included in the number of Lands Management Advisory Committee members referred to in subsection 37.1 [*Composition*] and is not entitled to vote on Lands Management Advisory Committee matters.

Eligibility

- 37.5. Any Eligible Voter, whether resident on or off 'Namgis First Nation Land, is eligible for appointment to the Lands Management Advisory Committee, except for the following:
 - a. any Eligible Voter convicted of an offence that was prosecuted by way of indictment under the Criminal Code of Canada or an offence under the Narcotic Control Act of Canada for a period of five years after the conviction date.
 - b. any undischarged bankrupt or any individual that is not in good standing or is in breach of an agreement with 'Namgis relating to monies owing to 'Namgis or another obligation owed to 'Namgis.
- 37.6. A member of the 'Namgis staff, or a consultant, or both, even when that individual is not a Member, is eligible for appointment to the Lands Management Advisory Committee.

Committee Candidates

- 37.7. a. As soon as practicable following enactment of this Land Code, Council shall give Public Notice of a call for Lands Management Advisory Committee members.
- b. The Public Notice shall include a description of eligibility requirements and information regarding how interested Members may submit an expression of interest.
- c. Members who are interested in sitting on the Land Management Advisory Committee may provide written expressions of their interest in participating to Council for consideration.

Appointment

- 37.8. a. Subject to subsections 37.3, 37.5 and 37.6, the members of the Lands Management Advisory Committee shall be appointed by Council from amongst those who submit an expression of interest submitted under paragraph 37.7.c [*Committee Candidates*].

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- b. In the absence of a sufficient number of candidates meeting the composition guidelines set out in subsection 37.1 [*Composition*] submitting expressions of interest, Council may appoint any eligible Member(s) to the Lands Management Advisory Committee.

Term of office

- 37.9. The term of office of a member of the Lands Management Advisory Committee appointed by Council under subsection 37.8 [*Appointment*] shall be four years or such longer period as determined by Council by Resolution.

Staggered terms

- 37.10. a. In the first appointment of Lands Management Advisory Committee members under this Land Code:
 - i. The Majority of the Lands Management Advisory Committee members initially appointed shall be appointed for a term commencing at midnight of the appointment date and terminating at midnight four years following the appointment date;
 - ii. the remaining Lands Management Advisory Committee members initially appointed shall hold office for a term commencing at midnight of the appointment date and terminating at midnight two years following the appointment date; and
- b. In all appointments subsequent to the first appointment of Committee members, appointees under subsection 37.8 [*Appointment*] will hold office for a term commencing at midnight on the date of their appointment and terminating four years following that date, unless extended by Council by Resolution.

Vacancy on Lands Management Advisory Committee

- 37.11. The office of a member of the Lands Management Advisory Committee becomes vacant if the member, while holding office:
 - a. is or becomes ineligible to hold office under subsection 37.5 [*Eligibility*];
 - b. is absent for three consecutive meetings of the Lands Management Advisory Committee for a reason other than illness or incapacity without being authorized to be absent by a Majority vote of the Lands Management Advisory Committee;
 - c. dies or is deemed to be mentally incompetent by a physician;
 - d. is dismissed by Council for contravention of conflict of interest rules established under this Land Code, a Law, or Subordinate Legislation or other conduct deemed detrimental to 'Namgis; or
 - e. resigns in writing.

Vacancy in term

- 37.12. Where the office of a member of the Lands Management Advisory Committee becomes vacant more than 90 days before the date when another appointment would be made, an appointment shall be made by Council in accordance with subsection 37.8 [*Appointment*] of this Land Code to fill the vacancy.

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Balance of term of office

37.13. The term of an appointee to Lands Management Advisory Committee filling a vacancy under subsection 37.12 [*Vacancy in term*] is the balance of the term in respect of which the vacancy occurred or such other period as may be determined by Council, so long as the term of office does not exceed four years.

38. Chair of the Lands Management Advisory Committee

Appointment of Chair

38.1. The Lands Management Advisory Committee shall appoint a Chair at the first meeting of the Lands Management Advisory Committee and at the first meeting after the position of Chair becomes vacant.

Term in the position of Chair

38.2. Subject to subsection 37.12, the Chair of the Land Management Advisory Committee will serve as Chair for the duration of his or her appointment to the Committee.

Alternate Chair

38.3. If the Chair is unable to perform the functions of office, either temporarily or on a long-term basis, as determined by the Majority of the other members of the Lands Advisory Committee, the Lands Management Advisory Committee shall appoint another member of the Lands Management Advisory Committee to act as the Chair.

Duties of the Chair

38.4. The Chair shall:

- a. chair meetings of the Lands Management Advisory Committee;
- b. ensure that there is an agenda prepared and circulated to Lands Management Advisory Committee members in advance of each meeting and that the agenda is followed at each meeting; and
- c. perform such other duties as may be reasonably prescribed by Council or established under subsection 36.2 [*Internal Procedures*].

39. Decision-making by the Lands Management Advisory Committee

Quorum of the Lands Management Advisory Committee

39.1. A quorum of the Lands Management Advisory Committee requires that a Majority of the Lands Advisory Committee members are present.

Committee shall strive for consensus

39.2. The Lands Management Advisory Committee shall strive to reach consensus with respect to its decisions.

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40. Reporting from the Lands Management Advisory Committee and Meetings

Reporting from the Lands Management Advisory Committee

- 40.1. The Lands Management Advisory Committee will prepare at least one annual activity report for the Members to provide, at minimum:
 - a. an overview of proposals received;
 - b. a summary of activities completed;
 - c. updates on current activities; and
 - d. anticipated upcoming activities.

Purpose and frequency of meetings with Members and the Lands Management Advisory Committee

- 40.2. The Lands Management Advisory Committee will hold at least one (1) meeting with Members each calendar year with the purpose of:
 - a. presenting the annual activity report to the Members; and
 - b. responding to Member questions.

41. Revenue from 'Namgis First Nation Land

Determination of fees and rent

- 41.1. The Lands Management Advisory Committee and the Lands Manager shall, subject to the approval of Council, establish a process for determining:
 - a. any application, grant of Interest, payment, fees, rent, royalty or other amount relating to a law, process or grant under this Land Code;
 - b. fees for services provided in relation to any 'Namgis First Nation Land and compliance with this Land Code; and
 - c. standards and qualifications for employees and contractors hired for purposes of implementing and administering this Land Code.

PART 7 – ACCOUNTABILITY

42. Conflict of Interest or Appearance of Conflict of Interest

Application of rules

- 42.1. The conflict of interest rules in this Land Code apply to the following persons:
 - a. each member of Council who is dealing with any matter before Council that is related to 'Namgis First Nation Land;
 - b. each person who is an employee of 'Namgis dealing with any matter that is related to 'Namgis First Nation Land; and
 - c. each person who is a member of the Lands Management Advisory Committee.

Conflict of interest definition

- 42.2. In this section:

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- a. A person to whom the conflict of interest rules apply:
 - i. has a conflict of interest when the person is being asked to deliberate or decide on a matter where there is the opportunity to further his or her private interest or the private interest of a member of his or her Immediate Family;
 - ii. has an apparent conflict of interest if there is a reasonable perception, which a reasonably well-informed person could properly have, that the person's ability to deliberate or decide on the matter must have been affected by his or her private interest or the private interest of a member of his or her Immediate Family.
- b. "**private interest**" does not include an interest that a person or a member of his or her Immediate Family has in a matter only by virtue of the fact that the person or a member of his or her Immediate Family member is a Member.

Duty to report and abstain

- 42.3. If a person has an actual or apparent conflict of interest in the matter being dealt with, the person:
- a. shall disclose the interest to Council, the Lands Management Advisory Committee and the Lands Manager;
 - b. shall not take part in any deliberations on that matter or vote on that matter; and
 - c. shall remove themselves from the proceedings.

Inability to act

- 42.4. If the Lands Management Advisory Committee is unable to act due to a conflict of interest, the matter shall be referred to Council.

Specific Conflict situations

- 42.5. Not more than two (2) members from the same Immediate Family shall be concurrent members of the Lands Management Advisory Committee in cases where it is comprised of five (5) or more members. In situations where the Lands Management Advisory Committee consists of less than five (5) members, not more than one (1) member from the same Immediate Family shall be concurrent members of the Lands Management Advisory Committee.

Disputes

- 42.6. The individual, body or bodies appointed under a dispute resolution Law that may be created in accordance with this Land Code shall have the jurisdiction to hear and decide on any matter concerning a conflict of interest.

43. Financial Management

Application

- 43.1. This section applies only to financial matters relating to 'Namgis First Nation Land.

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Financial policies

43.2. The 'Namgis Financial Management Policies, as may be amended from time to time, or if the 'Namgis Financial Management Policies are repealed, any Law dealing with financial administration, also as may be amended from time to time, will be complied with in relation to matters covered by this Land Code.

44. Annual Report

Publish annual report

44.1. Council, on behalf of 'Namgis, shall publish an annual report on land matters.

Contents of annual report

44.2. The annual report shall include:

- a. an annual review of 'Namgis First Nation Land;
- b. an annual budget in respect of land matters;
- c. a copy and explanation of the audit as it applies to 'Namgis First Nation Land;
- d. any other matter as determined by Council.

Format of the annual report

44.3. Every effort should be made to ensure that the annual report be written in plain language.

45. Access to Information

In-person access

45.1. Any person may, during normal business hours at the main administrative office of the 'Namgis, have reasonable access to:

- a. the Register of Laws; and
- b. any reports of the auditor.

Copies for Members

45.2. Any Member may, upon payment of reasonable copying expenses, obtain a hard copy of any auditor's report, annual report or Law.

Electronic copies for Members

45.3. Any Member may obtain a digital copy of any auditor's report, annual report or Law.

Access to records

45.4. Any person authorized by Council may inspect the financial records of 'Namgis related to 'Namgis First Nation Land.

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PART 8 – DISPUTE RESOLUTION

46. Dispute Resolution Process

Informal Resolution to Disputes

46.1. 'Namgis intends that wherever possible, a dispute in relation to 'Namgis First Nation Land will be resolved through informal discussion by the parties to the dispute and nothing in this Part is intended to limit the parties' ability to resolve the dispute informally.

Application of this Part to disputes

- 46.2. This Part applies to:
- a. disputes involving a Member who claims an Interest;
 - b. disputes involving a person who has a dispute with another person or with 'Namgis in relation to the possession, use or occupation of 'Namgis First Nation Land;
 - c. 'Namgis when disputing the possession, use or occupation of 'Namgis First Nation Land;
 - d. disputes about whether or not a person is in a conflict of interest as set out in this Land Code; and
 - e. disputes in relation to Expropriation as set out at Section 32 [*Expropriation – Taking Land for Community Purposes*].

Disputes that cannot be resolved under this Part

- 46.3. This part does not apply to disputes of decisions:
- a. relating to housing allocation; or
 - b. of the Council to grant or refuse to grant an Interest in 'Namgis First Nation Land.

Resolution of disputes that originated before Land Code

46.4. Disputes that originated before this Land Code came into effect may be decided under this Part, at the discretion of Council.

Mediation

- 46.5. Parties that have been unable to resolve a dispute through informal discussion in accordance with subsection 46.1 may attempt to resolve the dispute through mediation, in accordance with the following procedure:
- a. the parties to the dispute shall jointly select a mediator within thirty (30) days of the dispute not being resolved by informal discussion;
 - b. if the parties are unable to agree on a mediator, the parties may request the British Columbia International Commercial Arbitration Centre to appoint a mediator; and
 - c. the mediator to the dispute shall set the rules and procedures for the mediation.

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Arbitration

- 46.6. a. If the parties are unable to resolve the dispute through informal discussion or mediation, or the parties are not able to agree on a mediation process, the parties may attempt to resolve the dispute through arbitration, or one or more parties to a dispute may give written notice of its intention to submit the dispute to arbitration to the other party or parties (the "Notice") in accordance with the following procedure:
 - i. the parties to the dispute shall jointly select an Arbitrator within thirty (30) days of the parties agreeing to refer the dispute to arbitration or the date of the Notice;
 - ii. if the parties are unable to agree on an Arbitrator, or the party or parties giving notice within the time set out in subparagraph 46.6 a.i., may request the British Columbia International Commercial Arbitration Centre to appoint an Arbitrator; and
 - iii. the Arbitrator of the dispute shall set the rules and procedures for the arbitration.
- b. The decision of the Arbitrator shall be final and binding on the parties.

Assumption of costs

- 46.7. Subject to any ruling by an Arbitrator, all parties to a dispute shall bear their own costs in any dispute resolution process they undertake.

'Namgis First Nation not liable for costs

- 46.8. For greater certainty, 'Namgis shall not be liable or responsible for the costs of any dispute resolution process under Part 8 [*Dispute Resolution*] where 'Namgis is not a party.

PART 9 – REFERENDUM PROCEDURES

47. Application

- 47.1. This Part applies only to a Referendum required by this Land Code or a Referendum Council determines is advisable in relation to the management and administration of 'Namgis First Nation Lands.

48. Holding a Referendum

- 48.1. Council shall hold a Referendum by way of vote when so required by this Land Code or when it considers it advisable. A second Referendum on any question cannot be held for at least sixty (60) days after the first vote on that question.
- 48.2. Council shall, by Resolution at least ninety (90) days prior to the date on which the referendum is to be held:
 - a. set a date for the Referendum;
 - b. determine the question or questions to be asked in the Referendum;
 - c. appoint an Electoral Officer to conduct the Referendum; and
 - d. appoint an Arbitrator to hear and determine any appeals of the Referendum.

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- 48.3. Unless otherwise required by this Land Code, a question put to Referendum shall be approved, if a Majority of the Eligible Voters who cast valid ballots vote "YES" to the question asked.
- 48.4. In order to be entitled to vote in a Referendum, a person must be an Eligible Voter.

49. Electoral Officer and Deputy Electoral Officers

- 49.1. If an Electoral Officer and an Arbitrator have not been appointed within the time set out in subsection 48.2, the Electoral Officer and Arbitrator shall be appointed by the 'Namgis Administrator as soon as possible.
- 49.2. A Deputy Electoral Officer or Officers may be appointed by the Electoral Officer within fourteen (14) days of the appointment of the Electoral Officer and shall work under the direction of the Electoral Officer.
- 49.3. The Deputy Electoral Officer(s) shall have such powers as described in this Part and those powers of the Electoral Officer as are delegated to them by the Electoral Officer.
- 49.4. No Deputy Electoral Officer(s) shall be a member of Council.
- 49.5. The Electoral Officer shall not be a member of Council, a Member or salaried officer or employee of 'Namgis or a holder of other contracts of services for 'Namgis.
- 49.6. Every Electoral Officer and Deputy Electoral Officer(s) shall swear an oath of office before a justice of the peace, notary public or duly appointed commissioner for swearing oaths of office and shall file with the 'Namgis Administrator the sworn oath of office before assuming their office.
- 49.7. The Electoral Officer and Deputy Electoral Officer(s) shall:
 - a. Uphold and abide by the rules established in this Part;
 - b. Act fairly and impartially;
 - c. Not favour, oppose, promote or be associated with a campaign on any aspect of a Referendum;
 - d. Not discriminate against anyone because of race, religion, sex, age or disability;
 - e. Have no vested interest in the outcome of a Referendum;
 - f. Not accept anything of value in exchange for preferential treatment or access to a public official or non-public information;
 - g. Use public office facilities to fulfill the duties of their office and not for personal or partisan benefit;
 - h. Not be qualified to vote in a Referendum; and
 - i. Always act in the best interest of 'Namgis.
- 49.8. The Electoral Officer may make such order and issue such instructions consistent with the provisions of this Part, as he or she may from time to time deem necessary for the effective administration of the Referendum.

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50. Contact Addresses

- 50.1. The 'Namgis Administrator shall, within seven (7) days of the Electoral Officer assuming office, provide the Electoral Officer with the names and contact addresses of all Eligible Voters, if known.
- 50.2. The contact address shall take the form of a mailing address and, where available, an email address.
- 50.3. The contact address shall be used only for the purposes of providing notices, mail-in ballots or other documents to Eligible Voters who are entitled to receive them under this Part. Except for these purposes, the contact address shall not be disclosed by the Electoral Officer without the consent of the Eligible Voter.
- 50.4. Eligible Voters shall be responsible for providing the 'Namgis Administrator or the Electoral Officer with current contact addresses.
- 50.5. A document shall be considered properly provided if it was mailed or delivered to the contact address of the Eligible Voter.

51. List of Eligible Voters

- 51.1. The Electoral Officer shall prepare a List of Eligible Voters within thirty (30) days of assuming office. The List of Eligible Voters will be the official record of Eligible Voters for the Referendum.
- 51.2. The Electoral Officer shall post the List of Eligible Voters by way of a Public Notice no later than sixty (60) days prior to the date on which the Referendum is to be held.
- 51.3. A person whose name does not appear, or does not correctly appear, on the List of Eligible Voters, and believes that they should be an Eligible Voter for purposes of the Referendum, or an Eligible Voter on their behalf, may, no later than thirty (30) days prior to the date on which the Referendum is to be held, apply in writing to the Electoral Officer to have his or her name added to the List of Electors.
- 51.4. The application under subsection 51.3 shall set out the reasons why the person's name should be added to the List of Eligible Voters, together with any documents supporting the application.
- 51.5. Where the Electoral Officer believes or has information that a person whose name is on the List of Eligible Voters is not an Eligible Voter, or where an Eligible Voter applies in writing to the Electoral Officer to have another person's name removed from the List of Eligible Voters because that person does not qualify as an Eligible Voter, the Electoral Officer shall give written notice to the person whose eligibility is challenged at least twenty (20) days prior to the date on which the Referendum is to be held.
- 51.6. The application by an Eligible Voter under subsection 51.5 shall set out the reasons why a person's name should be removed from the List of Eligible Voters together with any documents supporting the application and must be received by the Electoral Officer no later than twenty-five (25) days prior to the date on which the Referendum is to be held.
- 51.7. The notice given under subsection 51.5, shall include the reasons for seeking removal of a name from the List of Eligible Voters and any supporting documents, and shall provide notice that a written reply may be sent to the

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Electoral Officer which must be received no later than fifteen (15) days prior to the date on which the Referendum is to be held.

- 51.8. After consideration of all information and representations relating to amendments to the List of Eligible Voters, the Electoral Officer shall add or delete names to the List of Eligible Voters, based on whether persons qualify as Eligible Voters.
- 51.9. The Electoral Officer shall give a person whose name has been added to or deleted from the List of Eligible Voters written notice of the decision, which may be by electronic means and shall post the decision by way of a Public Notice at least ten (10) days prior to the date on which the Referendum is to be held.
- 51.10. The decision of the Electoral Officer under section 51.8 is final and not subject to appeal.
- 51.11. The Electoral Officer shall, at least ten (10) days prior to the date on which the Referendum is to be held, post a final List of Eligible Voters by way of a Public Notice.
- 51.12. Any person whose name does not appear on the final List of Eligible Voters shall not be entitled to vote in the Referendum.

52. Preparation of Ballots

- 52.1. The Electoral Officer shall prepare ballots setting out the question to be asked in the Referendum. The Referendum question shall be in clear, concise, impartial language and in a form that may only be answered with a "yes" or "no".
- 52.2. The ballots shall indicate that the Eligible Voter is to signify his or her choice with an "X" or other mark under the word "YES" or "NO" in the appropriate space opposite each question stated on the ballot.

53. Entitlement to Vote by Mail-in Ballot and Electronic Voting

- 53.1. At least sixty (60) days prior to the date on which the Referendum is to be held, the Electoral Officer shall publish a notice in the 'Namgis newsletter sent to Eligible Voters or shall forward to Eligible Voters at their contact address a notice setting out the conditions for voting by mail-in ballot and, if Council decides, Electronic Voting.
- 53.2. The notice shall include:
 - a. notification that a copy of this Land Code can be obtained at the 'Namgis administration building;
 - b. the places where copies of the List of Eligible Voters shall be posted;
 - c. a statement that Eligible Voters who are Ordinarily Resident on 'Namgis First Nation Lands who are unable to vote in person on the date of the Referendum may, at least twenty (20) days prior to the date on which the Referendum is to be held, apply to the Electoral Officer to vote by mail-in ballot;
 - d. a statement that Eligible Voters who are not Ordinarily Resident on 'Namgis First Nation Lands are entitled to vote by mail-in ballot and that a mail-in ballot will be sent to them unless they advise the Electoral Officer in writing that they do not want to receive a mail-in ballot at least forty (40) days prior to the date on which the Referendum is to be held;

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- e. the business address, telephone, facsimile number and email address of the Electoral officer;
 - f. the date of the notice;
 - g. the method for Electronic Voting if Council decides that this shall occur;
 - h. Any other information that the Electoral Officer deems necessary or appropriate.
- 53.3. Any Eligible Voter who is Ordinarily Resident on 'Namgis First Nation Lands and who is unable to vote in person on the date of the Referendum is to be held may, at least ten (10) days prior to the date on which the Referendum is to be held, apply to the Electoral Officer to vote by mail-in-ballot or by way of Electronic Voting should Council mandate it.
- 53.4. Any Eligible Voter who is not Ordinarily Resident on 'Namgis First Nation Lands and who has not been sent a mail-in ballot package in accordance with section 53.6 may, at least twenty (20) days prior to the date on which the referendum is to be held, apply to the Electoral Officer to vote by mail-in ballot.
- 53.5. An Eligible Voter requesting a mail-in ballot package shall provide the Electoral Officer with a current mailing address. The Electoral Office shall keep a list of each Eligible Voter to whom he or she sent a mail-in ballot to and the date on which it was sent.
- 53.6. The Electoral Officer shall, at least thirty-five (35) days prior to the date on which the Referendum is to be held, mail to every Eligible Voter who is not Ordinarily Resident on 'Namgis First Nation Lands and to every Eligible Voter who is Ordinarily Resident on 'Namgis First Nation Lands whose application to vote by mail-in ballot or by way of Electronic Voting has been received, a mail-in ballot package, or Electronic Voting instructions, consisting of:
- a. a ballot initialed on the back by the Electoral Officer;
 - b. an inner postage-paid return envelope, pre-addressed to the Electoral Officer;
 - c. a second inner envelope marked "ballot" for insertion of the completed ballot;
 - d. an Eligible Voter declaration form which shall set out:
 - i. the name of the Eligible Voter;
 - ii. the 'Namgis membership number and address of the Eligible Voter; and
 - iii. the name, address and telephone number of the witness to the signature of the Eligible Voter.
 - e. a letter of instruction regarding voting by mail-in ballot; and
 - f. a statement identifying the location of all polling places, advising the Eligible Voter that they may vote in person at any polling station on the day of the Referendum if they return their mail-in ballot to the Electoral Officer at the polling station or swear a written declaration before the Electoral Officer, a justice of the peace, notary public or duly appointed commissioner for taking oaths that they have lost the mail-in ballot.

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54. Notice of Polls

- 54.1. The Electoral Officer shall, at least thirty (30) days prior to the date on which the Referendum is to be held, post a Public Notice.
- 54.2. The Public Notice shall include:
 - a. the date of the Referendum;
 - b. the date of the Advance Vote;
 - c. the time the polling stations will be open and closed;
 - d. the location of the polling stations; and
 - e. the question or questions to be asked in the Referendum; and

55. Voting by Mail-in Ballot

- 55.1. An Eligible Voter shall vote by mail-in ballot by:
 - a. clearly marking the ballot with an (X) or other mark that clearly indicates the Eligible Voter's choice under the word "YES" or "NO" in the appropriate space opposite each question stated in the ballot;
 - b. folding the ballot in a manner so as to conceal the mark or marks on the face of the paper but exposing the Electoral Officer's initials on the back;
 - c. placing the ballot in the inner envelope marked "ballot" and sealing the envelope;
 - d. completing and signing the Eligible Voter declaration form in the presence of a witness who is at least eighteen (18) years of age;
 - e. placing the inner envelope and the completed, signed and witnessed Eligible Voter declaration form in the postage-paid, return envelope, pre-addressed to the Electoral Officer; and
 - f. delivering to, or otherwise ensuring receipt of the envelope by the Electoral Officer before the time at which the polls close on the day of the Referendum.
- 55.2. Mail-in ballots that are not received by the Electoral Officer before the time at which the polls close on the day of the Referendum shall not be counted.
- 55.3. An Eligible Voter whom a mail-in ballot was mailed or delivered may vote in person at a polling station if:
 - a. the Eligible Voter returns the mail-in ballot to the Electoral Officer or Deputy Electoral Officer; or
 - b. where the Eligible Voter has lost the mail-in ballot, the Eligible Voter provides the Electoral Officer or Deputy Electoral Officer with a written affirmation of loss signed by the Eligible Voter in the presence of either the Electoral Officer, Deputy Electoral Officer, justice of the peace, notary public or commissioner for taking oaths.

56. Advance Voting

- 56.1. The Electoral Officer shall conduct an in-person vote on the Advance Voting Day in the same manner as on the date of the Referendum.

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56.2. At the close of the advance poll, the Electoral Officer will, in the presence of two or more Eligible Voters who will act as witnesses, seal the ballot boxes in such a manner as to prevent tampering and take them to a secure location pending the tallying of the votes on the close of the date of the Referendum.

57. Voting at a Polling station

57.1. The polling station shall be open from nine o'clock (9:00) in the morning until nine o'clock (9:00) in the evening on the day on which the Referendum is to be held and on the Advance Voting Day.

57.2. The Electoral Officer shall, before the polling station is open, supply the polling station with:

- a. ballot boxes;
- b. a sufficient number of ballots;
- c. the final List of Eligible Voters;
- d. the necessary materials for marking ballots; and
- e. a ballot tally sheet to identify the number of confirmed votes and the number of rejected ballots.

57.3. During the time the polling station is open, only the following people may be present:

- a. The Electoral Officer and the Deputy Electoral Officer(s);
- b. Any member of the Council;
- c. Up to five (5) scrutineers appointed by the Council;
- d. Any person authorized by the Electoral Officer; and
- e. Voters who are actually engaged in voting.

57.4. The Electoral Officer shall issue on voting day to all individuals referred to in clause 57.3.(a)-(d) identification badges to wear in a prominent manner.

57.5. The Electoral Officer shall provide a voting compartment inside the polling station where the Eligible Voters can mark their ballots free from observation and the Electoral Officer may appoint security to maintain order at the polling site.

57.6. The Electoral Officer or Deputy Electoral Officer shall, immediately before the commencement of the poll:

- a. open the ballot box and, in the presence of any appointed security and other Deputy Electoral Officers, confirm that it is empty and complete a written statement to that effect;
- b. lock and properly seal the ballot box in a manner preventing it from being opened without breaking the seal; and
- c. place the ballot box in public view for the reception of the ballots.

57.7. Each Eligible Voter presenting themselves at a polling station for the purpose of voting shall present to the Electoral Officer or Deputy Electoral Officer identification issued by the Federal or Provincial government or by 'Namgis.

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- 57.8. An Eligible Voter that is not on the List of Eligible Voters shall not be entitled to vote if he or she presents documentary proof that he or she is an Eligible Voter to the satisfaction of the Electoral Officer or a Deputy Electoral Officer.
- 57.9. If a person applies for a ballot and it is not clear to the Electoral Officer or Deputy Electoral Officer which name on the List of Eligible Voters pertains to that person, the Electoral Officer or Deputy Electoral Officer shall:
 - a. Select, with the assistance of that person if needed the entry that corresponds most closely to the person; and
 - b. Enter in the List of Eligible Voters a notation as to how the selection was determined, including any characteristics such as age, sex and address that may distinguish the voter from another voter with the same or a similar name.
- 57.10. An Eligible Voter, who on requesting a ballot, claims to be a particular person after another person has voted in the same name, shall be entitled to receive a ballot and to vote after signing a declaration that he or she has been impersonated. The Electoral Officer or Deputy Electoral Officer shall note in the List of Eligible Voters:
 - a. That the Eligible Voter voted on a second ballot issued under the same name;
 - b. That a declaration of impersonated voter was made; and
 - c. Any objections made by a scrutineer.
- 57.11. Where a person is properly identified as an Eligible Voter, he or she shall sign the sign-in sheet presented by the Electoral Officer or Deputy Electoral Officer and list their membership number on the sign-in sheet.
- 57.12. Upon signing the sign-in sheet, the Eligible Voter shall receive a ballot initialed by the Electoral Officer or Deputy Electoral Officer.
- 57.13. The Electoral Officer or Deputy Electoral Officer shall place in the proper column of the List of Eligible Voters, a mark opposite the name of every Eligible Voter receiving a ballot.
- 57.14. The Electoral Officer or Deputy Electoral Officer shall, when requested to do so, explain the method of voting to the Eligible Voter.
- 57.15. Voting at all Referendums shall be by secret ballot.
- 57.16. No Eligible Voter may vote by proxy or authorize another person to vote on his or her behalf.
- 57.17. Notwithstanding subsection 57.16 and subsection 57.20 any Eligible Voter who requires assistance may request that the Electoral Officer or a Deputy Electoral Officer vote on their behalf in their presence in favour of, or against the question, as the Eligible Voter directs.
- 57.18. In the event that an Eligible Voter votes in the manner described in subsection 57.17 the Electoral Officer or Deputy Electoral Officer shall note on the List of Eligible Voters in the column for remarks opposite the name of such Eligible Voter, the fact that the ballot was marked by him or her in the presence of the Eligible Voter and the reasons therefore.

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- 57.19. Except for voting in the manner provided in section 57.17, the Electoral Officer or Deputy Electoral Officer shall ensure the Eligible Voter's privacy while in the voting compartment.
- 57.20. Upon receiving the ballot, each Eligible Voter shall:
- a. immediately proceed to the voting compartment and clearly mark the ballot with an (X) or other mark that clearly indicates the Eligible Voter's choice under the word "YES" or "NO" in the appropriate space opposite each question stated on the ballot;
 - b. fold the ballot, so as to conceal their choice in such a manner that only exposes the initials of the Electoral Officer or Deputy Electoral Officer; and
 - c. without unfolding the ballot, have the Electoral Officer or Deputy Electoral Officer verify his or her initials and at once deposit the ballot into the ballot box in the presence of the Deputy Electoral Officer in the polling station.
- 57.21. An Eligible Voter who inadvertently spoils his or her ballot may return it to the Electoral Officer or Deputy Electoral Officer in order to obtain another ballot, and the Electoral Officer or Deputy Electoral Officer shall write the word "cancelled" upon the spoiled ballot, deposit it in an envelope for cancelled and declined ballots and provide the Eligible Voter with a new ballot initialed by the Electoral Officer or Deputy Electoral Officer.
- 57.22. An Eligible Voter who has received a ballot and subsequently decides not to vote, must return the ballot to the Electoral Officer or Deputy Electoral Officer, who shall mark the word "declined" on the face of the ballot and deposit it in an envelope for cancelled and declined ballots.
- 57.23. An Eligible Voter forfeits his or her right to vote at the Referendum after being provided a ballot by the Electoral Officer or Deputy Electoral Officer if that person leaves the polling station without delivering the ballot to the Electoral Officer or the Deputy Electoral Officer.
- 57.24. Any Eligible Voter who is inside the polling station at the time fixed for closing the poll shall be entitled to vote.
- 57.25. Save and except for the Electoral Officer, Deputy Electoral Officer or appointed security, no one other than the Eligible Voters who are in the process of voting, or in the case of an elderly or physically incapacitated person, an attendant, is permitted to be inside the polling station.
- 57.26. No person shall, on the day the Referendum is held, on the premises of the polling site:
- a. distribute any printed materials except such materials as may be distributed by the Electoral Officer or Deputy Electoral Officer for the purposes of conducting the Referendum;
 - b. attempt to interfere with or influence any Eligible Voter in marking his or her ballot; or
 - c. attempt to obtain information as to how an Eligible Voter is about to vote or has voted.
- 57.27. The Electoral Officer may request appointed security to remove any person from the polling site who is in violation of subsection 57.26.

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58. Procedures After the Close of the Polls

- 58.1. The Electoral Officer shall not perform the tasks set out in this section in the presence of any other person except:
 - a. The Deputy Electoral Officer(s);
 - b. Any member of the Council;
 - c. No more than five (5) scrutineers appointed by the Council; and
 - d. Any person authorized by the Electoral Officer.
- 58.2. The Electoral Officer and Deputy Electoral Officer(s) shall begin the counting the ballots immediately after the end of voting.
- 58.3. The Electoral Officer and Deputy Electoral Officer(s) open the mail-in ballots and set aside the inner envelope if:
 - a. It is not accompanied by a voter declaration form or contains a voter declaration that has not been signed;
 - b. The Eligible Voter's information of the voter declaration form does not match that on the Eligible voters List; or
 - c. The Eligible Voters List shows that the Eligible Voter has already voted.
- 58.4. If the Electoral Officer or Deputy Electoral Officer does not set aside the inner envelope, he or she shall:
 - a. Mark the Eligible Voters List to indicate that the Eligible Voter has voted; and
 - b. Open the inner envelope and place the enclosed ballot into a ballot box.
- 58.5. After the mail-in votes have been processed, the Electoral Officer or the Deputy Electoral Officer shall open the ballot boxes and set aside any ballot that:
 - a. Does not have the Electoral Officer's initials on the back or is not an official ballot;
 - b. Does not indicate a clear preference for "yes" or "No"; or
 - c. Is spoiled.
- 58.6. The Electoral Officer or Deputy Electoral Officer shall mark each ballot set aside as "rejected" on the back of the ballot, indicate the reason and initial the ballot. If a scrutineer objects to the Electoral Officer's decision on whether to set aside a ballot, the Electoral Officer shall:
 - a. Make a note of the objection;
 - b. Number the objection;
 - c. Place the same number on the back of the ballot in question; and
 - d. Decide any question arising from the objection.
- 58.7. The Electoral Officer shall:
 - a. count the votes given in favour of or against the question or questions submitted in the Referendum;

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- b. not count ballots set aside;
 - c. once the counting of the ballots has been completed, he or she shall seal the following in separate envelopes:
 - i. Ballots marked “yes”;
 - ii. Ballots marked “no”;
 - iii. Ballots set aside, including notes taken or objections made;
 - iv. The Eligible Voters List; and
 - d. prepare and sign a statement in writing of the number of votes so given and of the number of ballots rejected.
- 58.8. Immediately after the completion of the counting of the votes, the Electoral Officer shall:
- a. publicly declare the results of the Referendum;
 - b. prepare a statement in duplicate signed by himself or herself indicating:
 - i. the number of Eligible Voters who voted;
 - ii. the number of votes cast in favour of and against the question or questions submitted in the Referendum;
 - iii. the number of rejected ballots; and
 - c. deliver a copy of the statement to Council.
- 58.9. The Electoral Officer shall:
- a. within three (3) days on which the Referendum is held post in the places where Public Notices are posted, a written statement signed by the Electoral Officer, showing the number of votes cast in favour of and against the question or questions submitted in the Referendum and the number of rejected ballots; and
 - b. publish a written statement, showing the number of votes cast in favour of and against the question or questions submitted in the Referendum and the number of rejected ballots, in the 'Namgis newsletter mailed to, or emailed to, Eligible Voters or in a separate written notice delivered or mailed to Eligible Voters.

59. Disposal of Ballots

- 59.1. The Electoral Officer shall deposit the ballots used in the voting and the cancelled and declined ballots in a sealed envelope and retain it for one hundred and twenty (120) days after the date on which the Referendum is held or until a decision on an appeal is rendered, whichever date is later, after which time the Electoral Officer may, unless directed otherwise by the Council, destroy them in the presence of two witnesses.

60. Appeals

- 60.1. Any Eligible Voter may file an appeal in writing to the 'Namgis Administrator requesting that the Referendum be declared invalid on one or more of the following grounds:

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- a. there was a violation of any provision of this Part in the conduct of the Referendum that might have affected the result of the Referendum; or
 - b. there was a corrupt or fraudulent practice in connection with the Referendum.
- 60.2. Every notice of appeal shall be filed with the 'Namgis Administrator within thirty (30) days from the date upon which the Referendum was held together with a non-refundable filing fee of one-hundred and fifty dollars (\$150).
- 60.3. Every appeal shall also set out in an affidavit sworn before a notary public, lawyer or duly appointed commissioner for taking oaths the facts substantiating the grounds for declaring the Referendum invalid and shall be accompanied by any documents relied on to support the appeal.
- 60.4. The Eligible Voter appealing the result of the Referendum shall deposit with the 'Namgis Administrator, together with the appeal, security for costs in the amount of one hundred and fifty (\$150).
- 60.5. Upon receipt of the Referendum appeal, the supporting documents, the filing fee and security for costs, the 'Namgis Administrator shall forward the appeal and supporting documents to Council.
- 60.6. Council shall have thirty (30) days from the receipt of the material described in subsection 60 to file with the 'Namgis Administrator a written reply to the appeal.
- 60.7. Upon expiration of the time to file a reply, the 'Namgis Administrator shall forward the appeal, the supporting documents and any reply to the Arbitrator chosen by Council to hear and determine the appeal.
- 60.8. The Arbitrator may, at his or her discretion, give directions for:
- a. fixing the date, time and place for the hearing of the appeal;
 - b. designating the method of taking evidence, either by sworn declaration or written testimony or both;
 - c. designating what persons are to be notified and how they are to be served; and
 - d. dealing with any matter or other thing not otherwise provided for in this section.
- 60.9. No witness shall be required to divulge how he or she voted in the Referendum.
- 60.10. The Arbitrator shall provide a written decision together with reasons, confirming or invalidating the Referendum results.
- 60.11. The result of the Referendum shall not be declared invalid by reason only of any irregularity or non-compliance with the Referendum procedures, or any mistake in the use of forms, if it appears to the Arbitrator that the Referendum was conducted in good faith unless the non-compliance, irregularity or mistake materially affected the result of the Referendum.
- 60.12. The Arbitrator may in his or her discretion order by whom, to whom and in what manner costs of the appeal shall be paid. The Arbitrator shall make disposition of the security for costs furnished under this section in accordance with their order.

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- 60.13. The Arbitrator shall give the person appealing the Referendum and Council written notice of the decision and shall post the decision in the places where Public Notices are placed.
- 60.14. The determination of the Arbitrator is final and not subject to appeal.

PART 10 – OTHER MATTERS

61. Liability

Liability Coverage

- 61.1. Council shall arrange, maintain and pay, out of the transfer payments received from Canada or other source, insurance coverage for:
 - a. liability of 'Namgis in relation to 'Namgis First Nation Land; and
 - b. Members of Council, members of the Lands Management Advisory Committee and officers, employees and consultants of 'Namgis engaged in carrying out any matter related to 'Namgis First Nation Land to indemnify them against personal liability arising from those activities, provided that those persons are acting in good faith.

Extent of coverage

- 61.2. The extent of the insurance coverage shall be determined from time to time by Council.

62. Offences and Enforcement

Application of the Criminal Code

- 62.1. Unless a different procedure is provided for by a Law, the summary conviction procedures of Part XXVII of the Criminal Code apply to offences under this Land Code or under a Law.

Fines & Imprisonment

- 62.2. Unless some other procedure is provided for by a Law, any person who commits an offence under this Land Code or a Law is liable to a fine not to exceed \$5,000 and to a term of imprisonment not to exceed six months or to both fine and imprisonment, provided however, that offences related to 'Namgis First Nation environmental protection Laws may carry penalties consistent with similar environmental protection laws in force in Canada

Other Offences and Penalties

- 62.3. Despite subsection 62.1 [*Application of the Criminal Code*]:
 - a. a Law may provide for fines for violation of specified provision of the Law; and,
 - b. a Law may provide for a variety of enforcement mechanisms including ticketing, stop work orders, restorative orders, and fines.

Justices of the peace; alternative enforcement mechanisms

- 62.4. For greater certainty, Council may enact Laws:

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- a. respecting appointment of Justices of the Peace for the enforcement of this Land Code and Laws;
- b. to enable appropriate enforcement issues and disputes to be dealt with through a community justice process; and
- c. to create a ticketing processes or similar enforcement mechanisms or to incorporate such processes or enforcement mechanisms from provincial or local government sources.

Courts

62.5. If no Justice of the Peace is appointed, or no applicable community justice process is established, this Land Code and Laws are to be enforced by a court of competent jurisdiction which shall include, but not be limited to the Provincial Court of British Columbia, the Supreme Court of British Columbia and the Federal Court of Canada, Trial Division and those courts are authorized to take jurisdiction in relation to the matters set out in this Land Code.

63. Amendments to Land Code

Amendment to Land Code

63.1. This Land Code may be amended from time to time in accordance with the provisions of this Land Code.

Verifier

63.2. A Verifier is not required in relation to an amendment to this Land Code.

64. Commencement

Preconditions

- 64.1. This Land Code shall not come into effect unless:
- a. the Eligible Voters approve this Land Code and the Individual Agreement with Canada by a vote in accordance with the Community Ratification Process dated for reference September 4, 2018; and
 - b. this Land Code has been certified by the Verifier pursuant to the Framework Agreement.

Commencement date

64.2. Subject to subsection 64.1 [*Preconditions*] this Land Code shall come into effect on the first day of the month following the certification of this Land Code by the Verifier.

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