

Strengthen and Empower a Prosperous Mistawasis



Mistawasis Land Code

Dated: May 13, 2016

VERIFIED

Date June 7, 2016

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DATE MARCH 9, 2017

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PREAMBLE

Whereas the Mistawasis Nêhiyawak has a spiritual and cultural relationship with the land;

And Whereas on December 12, 2013 the Mistawasis Nêhiyawak adhered to the *Framework Agreement on First Nation Land Management* between Her Majesty and a specific group of First Nations which was concluded on February 12, 1996, as amended, and which was ratified on behalf of the Government of Canada by the *First Nations Land Management Act*;

And Whereas the Mistawasis Nêhiyawak wishes to govern its lands and resources, rather than having its lands and resources managed on its behalf under the *Indian Act*;

Now Therefore this Land Code is Hereby Enacted as the Fundamental Land Law of the Mistawasis Nêhiyawak.

PART 1

PRELIMINARY MATTERS

1. Title

Title

1.1 The title of this enactment is the "Mistawasis Land Code" (herein "Land Code").

2. Interpretation

Definitions

2.1 The following definitions apply in this Land Code:

"Certificate of Possession" means a certificate issued by the Minister pursuant to ss. 20 (1) and (2) of the *Indian Act*, as amended from time to time.

"Council" means the duly elected Chief and Councillors of the First Nation.

"Eligible Voter" means, for the purpose of voting in respect of First Nation Land matters under this Land Code, a Member who has attained the age of eighteen (18) years of age on the day of the vote.

"Extended Family" in respect of a person means the person's grandparent, parent, uncle, aunt, cousin, sister, brother, child, grandchild, spouse or common law spouse.

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“First Nation” means the Mistawasis Néhiyawak.

“First Nation Land” means any portion of a reserve of the First Nation that is subject to this Land Code under Article 5.

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

“Framework Agreement” means the *Framework Agreement on First Nation Land Management* entered into between the Minister of Indian Affairs and Northern Development and the Chiefs of fourteen First Nations on February 12, 1996, as amended and to which the First Nation adhered on December 12, 2013.

“Immediate Relatives” in respect of a person means the person’s parent, sister, brother, child, spouse or common law spouse.

“Interest” in relation to First Nation Land means any estate, right or interest of any nature in or to First Nation Land, including a lease, easement, right of way, servitude, or profit a prendre, but does not include title to that land.

“Lands Committee” means the Lands Committee established under this Land Code.

“Land Law” means a law enacted pursuant to this Land Code.

“Land Manager” means the person hired by the First Nation to assist with First Nation Land related matters under this Land Code;

“Licence” means official permission to utilize or occupy First Nation Land for a specific purpose, other than an Interest in that land.

“Meeting of Members” means a meeting under sections 11.1 and 12.1 to which the Members are invited to attend.

“Member” means a person whose name appears or is entitled to appear on the Mistawasis Néhiyawak Band Membership List.

“Panel” means the Dispute Resolution Panel established under section 40.1.

“Ratification Vote” means a vote of Eligible Voters under section 14.1.

“Resolution” means a motion of the Council enacted under this Land Code passed at a duly convened meeting of the Council as evidenced by a band council resolution of the Council.

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“Spouse” means a person who is married to another person, whether by a traditional, religious or civil ceremony, and includes a common-law partner.

“Transfer Agreement” means the Individual Transfer Agreement made between the First Nation and Her Majesty in Right of Canada.

Paramountcy

2.2 If there is an inconsistency between this Land Code and any other enactment of the First Nation, this Land Code prevails to the extent of the inconsistency.

Culture and traditions

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

Language

2.4 The language of the First Nation may be used to clarify the meaning of any provision in this Land Code if the meaning of that provision is not otherwise clear in English.

Non-abrogation

2.5 This Land Code does not abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain now or in the future to the First Nation or its Members.

Fair Interpretation

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

Fiduciary Relationship

2.7 This Land Code does not abrogate or derogate from the fiduciary relationship between Her Majesty and the First Nation and its Members.

Lands and Interests affected.

2.8 A reference to First Nation Land or “land” in this Land Code means all rights and resources that belong to the land, and includes:

- (a) the water, beds underlying water, riparian rights, aboriginal or treaty rights, and renewable and non-renewable natural resources belonging to that land, to the extent that these are under the jurisdiction of Canada or the First Nation; and

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- (b) all the Interests and Licences granted to the First Nation by her Majesty in right of Canada listed in the Transfer Agreement.

Indian Oil and Gas Act

- 2.9 For greater certainty and notwithstanding anything to the contrary in this Land Code or any Land Law, the *Indian Oil and Gas Act* continues to apply to First Nation Land to the extent set out in section 3 of the *Framework Agreement* and paragraph 39 of the *First Nations Land Management Act*.

3. Authority to Govern

Origin of authority

- 3.1 The traditional teachings of the First Nation speak of the obligation of the Members of the First Nation to care for and respect the land and the magnificent wonders of Nature created on the land. By enacting this Land Code, the First Nation is reaffirming this special responsibility.

Flow of authority

- 3.2 The authority of the First Nation to govern and administer its lands and resources flows from the Creator to the Members of the First Nation, and from the Members to the Chief and Council according to the culture, traditions, customs and laws of the First Nation.

4. Purpose

Purpose

- 4.1 The purpose of this Land Code is to set out the principles, rules, and administrative structures that apply to First Nation Land and its resources and by which the First Nation will exercise authority over that land.

Ratification

- 4.2 The Framework Agreement is ratified and confirmed when this Land Code takes effect.

5. Description of First Nation Land

First Nation Land

- 5.1 The First Nation Land that is subject to this Land Code are the reserves known as Mistawasis Indian Reserves No. 103, No. 103A, No. 103B, No. 103C, No. 103D and No. 103E, as further described in Annex "G" of the Transfer Agreement.

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Additional lands

5.2 The following lands may be made subject to this Land Code by a Land Law after the applicable conditions are met:

- (a) any land or Interest acquired by the First Nation after this Land Code takes effect, whether by land claim, purchase, accretion or other process, provided the land is set aside as a reserve; and
- (b) any land owned jointly by the First Nation and another First Nation, when the First Nations involved agree upon a joint management scheme for those lands.

Land exchange

5.3 For greater certainty, section 5.2 does not apply to land acquired by land exchange, which is governed by the process set out in Article 33.

Inclusion of land or Interest

5.4 The Council shall call a Meeting of Members under section 11.1 to obtain the views of Members on any proposed inclusion of lands before the Council makes any Land Law or Resolution to include lands referred to in section 5.2 in this Land Code.

PART 2

FIRST NATION LEGISLATION

6. Land Law-Making Powers

Council may make Land Laws

6.1 The Council may, in accordance with this Land Code, make Land Laws and Resolutions respecting the grant, disposition, allocation, control, development, conservation, protection, management, use, possession, transfer and assignment of First Nation Land, and the granting of Interests and Licences in relation to those lands. This power includes the power to make Land Laws and Resolutions in relation to any matter necessary or ancillary to the making of Land Laws in relation to First Nation Land.

Role of Lands Committee

6.2 Notwithstanding anything to the contrary in this Land Code, the Council shall not make any decision related to the making of Land Laws and Resolutions without first having given the Lands Committee an opportunity to consider the matter and make recommendations or comments to the Council.

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Examples of Land Laws

6.3 The following examples illustrate some of the Land Laws that may be enacted:

- (a) Land Laws on the regulation, control and prohibition of zoning, land use, subdivision control and land development;
- (b) Land Laws on the creation, regulation and prohibition of Interests and Licences in relation to First Nation Land;
- (c) Land Laws on environmental assessment and protection;
- (d) Land Laws on the provision of local services in relation to First Nation Land and the imposition of equitable user charges; and
- (e) Land Laws on the provision of services for the resolution, outside the courts, of disputes in relation to First Nation Land.

7. Land Law-Making Procedure

Introduction of Land Laws

7.1 A proposed Land Law may be introduced at a duly convened meeting of the Council by:

- (a) the Chief or a Councillor of the Council; or
- (b) the representative of any body or authority composed of Members that may be authorized by the Council to do so.

Tabling and posting of proposed Land Laws

7.2 Before a proposed Land Law may be enacted by the Council, it must first be:

- (a) in writing and tabled with the Council at least twenty eight (28) days before the duly convened meeting of the Council at which the Land Law is to be considered for approval by the Council;
- (b) posted in public places on First Nation Land at least twenty one (21) days before the Land Law is to be considered for approval by the Council; and
- (c) the proposed Land Law shall be provided to the Lands Committee for review, recommendations and comment at least twenty one (21) days before the Land Law is to be considered for approval by the Council. The Lands Committee shall provide any recommendation or comment to the Council on the proposed Land Law at least seven (7) days before the duly convened meeting of the Council at which the Land Law is to be considered for approval by the Council.

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Members Comments

- 7.3 Members shall be entitled to provide comments to the Council on the proposed Land Law prior to the Land Law being considered for approval by the Council. All comments shall be in writing and shall be signed and dated by the Member providing the comments. Comments must be received by the Council at least seven (7) days before the duly convened meeting of the Council at which the Land Law is to be considered for approval by the Council. Comments not dated and signed shall not be considered by the Council. The Council shall consider such written, signed and dated comments prior to the Land Law being approved by the Council.

Explanation

- 7.4 The Council may require the Lands Committee or a Member commenting on the proposed Land Law to explain how the proposed Land Law would benefit the First Nation as a whole.

Urgent matters

- 7.5 The Council may enact a Land Law without the preliminary steps required under sections 7.2 to 7.4 if the Council is of the opinion that the Land Law is needed urgently in the interests of or to protect First Nation Land or the Members, but the Land Law expires one hundred and twenty (120) days after its enactment, unless re-enacted in accordance with sections 7.2 to 7.4.

Approval of Land Laws by Council

- 7.6 A Land Law is enacted if it is approved by a majority of the Council at a duly convened meeting of the Council open to the Members. In the case of a conflict preventing the Council from voting on or otherwise passing a proposed Land Law under the rules set out in Article 34, the Land Law is enacted if it is approved by a majority vote of the Eligible Voters present at a Meeting of Members in accordance with section 34.4.

Certification of Land Laws and Resolutions

- 7.7 The original copy of any Land Law or Resolution concerning First Nation Land shall be signed by a quorum of the Council who were present at the meeting at which it was enacted.

8. Publication of Land Laws

Publication

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

Posting Land Laws

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

Register of Land Laws

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

Copies for any Member

8.4 Any Member may obtain a copy of a Land Law or Resolution on payment of a reasonable fee set by the Council.

Copies for any Person

8.5 Any person who is not a Member may request a copy of a Land Law or Resolution in writing. With the consent of the Council in writing, any such person may obtain a copy of a Land Law or Resolution on payment of a reasonable fee set by the Council.

9. Commencement of Land Laws

Land Laws taking effect

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

PART 3

COMMUNITY APPROVALS

10. Rights of Eligible Voters

Rights of Eligible Voters

10.1 Each Eligible Voter is eligible to vote at a Meeting of Members and at a Ratification Vote.

11. Community Input

Prior Meeting of Members

11.1 The Council shall convene a Meeting of Members to receive their input prior to the introduction of the following Land Laws:

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- (a) a Land Law respecting a community plan or subdivision plan;
- (b) a Land Law declaring land or an Interest referred to in section 5.2 to be subject to this Land Code;
- (c) a Land Law affecting a heritage site or an environmentally sensitive property;
- (d) a Land Law respecting environmental assessment;
- (e) a Land Law respecting the transfer and assignment of an Interest in First Nation Land;
- (f) a Land Law respecting the rate and criteria for the payment of fees or rent for First Nation Land; and
- (g) any other Land Law or class of Land Laws that the Council, by Resolution, declares to be subject to this section.

Process to Implement Land Laws

11.2 The Council shall, within a reasonable time after this Land Code takes effect, establish a process to develop and implement the Land Laws referred to in section 11.1.

12. Community Approval at a Meeting of Members

Community approval By meeting

12.1 Community approval at a Meeting of Members must be obtained for the following:

- (a) any land use plan;
- (b) any grant or disposition of an Interest or Licence in any First Nation Land exceeding a term of ninety nine (99) years;
- (c) any renewal of a grant or disposition of an Interest or Licence in any First Nation Land that extends the original term beyond ninety nine (99) years;
- (d) any grant or disposition of any natural resources on any First Nation Land exceeding a term of five (5) years;
- (e) a charge or mortgage of a lease or leasehold Interest exceeding a term of forty nine (49) years;
- (f) any Land Law on spousal separation that may be enacted under Article 24;

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- (g) any matter provided for by a Land Law requiring approval by a Meeting of Members; and
- (h) any Land Law or class of Land Laws that the Council, by Resolution, declares to be subject to this section.

13. Procedure at a Meeting of Members

Voting

13.1 Decisions at a Meeting of Members are to be made by a majority vote of the Eligible Voters present at the Meeting of Members by a show of hands or in such other manner as may be determined by a Land Law.

Notice of meeting

13.2 The Council shall give written notice of the Meeting of Members that:

- (a) specifies the date, time and place of the meeting; and
- (b) contains a brief description of the matters to be discussed and decided on at the meeting.

Manner of notice

13.3 The notice of a Meeting of Members must be given to the Members by:

- (a) posting the notice in a public place on First Nation Land and on the First Nation website at least twenty one (21) days before the meeting;
- (b) mailing the notice to the last known address of the Members; and
- (c) such additional methods as the Council may consider appropriate in the circumstances.

Who may attend

13.4 All Members have a right to attend a Meeting of Members, but other persons may attend with the permission of the Council.

Quorum

13.5 The Council may, by Land Law or Resolution, establish a minimum number or percentage of Eligible Voters who are required to be present to constitute a quorum for the purposes of making decisions at a Meeting of Members pursuant to section 13.1.

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Other meetings

13.6 The Council may schedule more than one Meeting of Members to discuss and decide on a matter that requires a Meeting of Members. Where a meeting or matter to be voted upon is postponed for any reason then the provisions of this Article shall apply to any subsequent Meeting of Members called in respect of the same matter or matters.

14. Ratification Votes

Community approval By Ratification Vote

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

- (a) any development on a heritage site referred to in Article 32;
- (b) any voluntary exchange of First Nation Land;
- (c) any amendment to this Land Code; and
- (d) any Land Law or class of Land Laws that the Council, by Resolution, declares to be subject to this section.

Ratification process

14.2 Any Ratification Vote required under this Land Code shall be conducted in accordance with a Land Law enacted for this purpose.

No verifier

14.3 A verifier is not needed in any Ratification Vote.

PART 4

INTERESTS AND LICENCES IN LAND

15. Granting of Interests and Licences

All dispositions in writing

15.1 An Interest or Licence in First Nation Land may only be created, granted, disposed of, assigned or transferred by or with the consent of the Council and by a written document made in accordance with this Land Code.

Before Council makes a decision

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15.2 Notwithstanding anything to the contrary in this Land Code, the Council shall not make any decision relating to the creation, granting, disposal, assigning or transferring of Interests or Licences in First Nation Land without first having given the Lands Committee an opportunity to consider the matter and make recommendations or comments to the Council.

Standards

15.3 The Council may establish mandatory standards, criteria and forms for Interests and Licences in First Nation Land.

Improper Transactions void

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

Non-Members

15.5 A person who is not a Member may not hold a permanent Interest in First Nation Land, but may only hold a lease or Licence in First Nation Land.

Grants to non-Members

15.6 The written consent of the Council must be obtained for any grant or disposition of a lease or Licence in First Nation Land to a person who is not a Member.

Restriction on assignment or further grant

15.7 The grant of any Interest in or Licence to use First Nation Land shall be deemed to include a provision that the grant shall not be transferred or assigned or any other interest subsequently granted under the Interest or Licence without the written consent of the Council.

Resources not included

15.8 The grant of an Interest in or Licence to use First Nation Land, unless the instrument evidencing such Interest or Licence indicates otherwise, does not entitle the holder of the Interest or Licence or anyone else claiming an interest or right granted to them by such holder, to benefit from the resources located in, under or upon the affected First Nation Land.

16. Existing Interests

Continuation of existing Interests and Licences

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16.1 Any Interest or Licence in First Nation Land that existed when this Land Code takes effect will, subject to this Land Code, continue in force in accordance with its terms and conditions.

17. New Interests and Licences

Authority to make dispositions

17.1 Subject to section 12.1, the Council may, on behalf of the First Nation, grant:

- (a) Interests and Licences in First Nation Land, including leases, permits, easements and rights-of-ways;
- (b) Licences to take resources from First Nation Land, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances; and
- (c) a Licence in First Nation Land for telecommunication, water, electricity, gas, sewer or other like utility purposes and purposes ancillary thereto provided for in subsection 12.1(c) for any length of time without first obtaining the approval of Eligible Voters.

Conditional grant

17.2 The grant of an Interest or Licence may be made subject to the satisfaction of written conditions.

Role of the Lands Committee

17.3 The Lands Committee shall advise the Council on the granting of Interests or Licences and may be authorized to act as a delegate of the Council under this section.

18. Allocation of Lots for Residential Purposes

Allocation of lots

18.1 The Council may allocate a lot for residential purposes from available First Nation Land to a Member upon the recommendation of the Lands Committee and in accordance with policies and procedures established by the Council.

Rights to resources

18.2 Allocating an Interest or Licence in a residential lot to a Member does not entitle the Member to benefit from the resources located in, under or upon the First Nation Land.

No allocation of lots to non-Members

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18.3 A person who is not a Member is not entitled to be allocated a lot for residential purposes.

19. Transfer and Assignment of Interests

Transfer of Interests

19.1 A Member may only transfer or assign an Interest or Licence held by that Member in First Nation Land in writing with the written consent of the Council.

20. Limits on Mortgages and Seizures

Protections

20.1 Subject to this Land Code, section 29, section 87 and subsections 89(1) and (2) of the *Indian Act* continue to apply to First Nation Land.

Mortgage

20.2 A lease or the Interest of a Member in First Nation Land may be subject to a mortgage or charge with the written consent of the Council.

Mortgages of leasehold Interests with consent

20.3 For greater certainty, a leasehold Interest may be subject to a mortgage or charge, with the approval of the First Nation in accordance with section 12.1(e) of this Land Code, or the written consent of the Council, as may be applicable.

Time limit

20.4 The term of any charge or mortgage of a leasehold Interest shall not exceed:

- (a) the term of the lease; or
- (b) forty nine (49) years, or such longer period as may receive community approval.

Default in mortgage

20.5 In the event of default in the terms of a charge or mortgage of a leasehold Interest, the leasehold Interest is not subject to possession by the chargee or mortgagee, by way of foreclosure, power of sale or any other form of execution or seizure, unless:

- (a) the charge or mortgage received the written consent of the Council;
- (b) the charge or mortgage received community approval where required;

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- (c) the charge or mortgage was registered in the First Nations Land Register; and
- (d) a reasonable opportunity to redeem the charge or mortgage is given to the Council on behalf of the First Nation.

Power of redemption

20.6 A charge or mortgage of a leasehold Interest shall be deemed to include a provision that the First Nation shall have the right to redeem the charge or mortgage in the event of default under the charge or mortgage.

Power of redemption exercised

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

21. Residency and Access Rights

Right of residence

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

- (a) Members who have been allocated a residential lot by the Council and their spouses and children;
- (b) Members with a registered Interest in First Nation Land;
- (c) any invitee of a Member referred to in subsections (a) or (b); and
- (d) lessees and licencees, in accordance with the provisions of the granting instrument.

Right of Access

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

- (a) a lessee and his or her invitees;
- (b) a person granted a right of access under a Licence;
- (c) Members and their spouses and children;
- (d) a person who is authorized by a government body or any other public body, established by or under an enactment of the First Nation, Parliament or the province of Saskatchewan to establish, operate or administer a

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public service, to construct or operate a public institution or to conduct a technical survey; or

- (e) a person authorized in writing by the Council or by a First Nation Land Law or Resolution.

Public access

21.3 Any individual may have access to First Nation Land for any social or business purposes if:

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

Denial of access

21.4 The Council may, for valid and fair reasons, deny or restrict the right to reside on or to access First Nation Land to any person if, at a duly convened meeting of the Council, the Council votes in favour of a Resolution denying or restricting such right of the person.

Trespass

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

Civil remedies

21.6 All civil remedies for trespass are preserved.

22. Certificates of Possession

Nature or Interest in CP

22.1 This Land Code and any Land Laws and Resolutions passed under it apply to First Nation Land that is subject to a Certificate of Possession.

23. Transfers of Certificates of Possession

Transfer on death

23.1 A Member who claims to be entitled to a Certificate of Possession by testamentary disposition or succession is not entitled to such Certificate of Possession until:

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- (a) such Member has filed with the Council, or such person or body as may be designated by the Council, an instrument in a form prescribed by the Council, duly executed by the personal representative of the estate of the deceased Member transferring such Certificate of Possession to the Member; and
- (b) the instrument referred to in subsection (a) is registered in the First Nations Land Register and the First Nation Duplicate Land Register, if one is established.

Transfer by purchase

23.2 A Member who purchases or otherwise acquires a Certificate of Possession is not entitled to such transfer until:

- (a) the purchaser has filed with the Council, or such person or body as may be designated by the Council, an instrument in a form prescribed by the Council; and
- (b) the instrument referred to in subsection (a) is registered in the First Nations Land Register and the First Nation Duplicate Land Register, if one is established.

24. Spousal Property Land Law

Enactment of rules and procedures

24.1 The Council shall enact a spousal property Land Law, providing rules and procedures applicable on the breakdown of a marriage, with respect to:

- (a) the use, occupancy and possession of First Nation Land; and
- (b) the division of Interests in that First Nation Land.

Development of rules and procedures

24.2 The rules and procedures contained in the spousal property Land Law shall be developed by the Lands Committee, under the direction of the Council, in consultation with the Members.

Enactment deadline

24.3 The spousal property Land Law shall be enacted within twelve (12) months from the date that this Land Code takes effect.

General principles

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24.4 For greater certainty, the rules and procedures developed by the Lands Committee under this section must respect the following general principles:

- (a) each spouse should have an equal right to possession of their matrimonial home;
- (b) each spouse should be entitled to an undivided half interest in their matrimonial home, as a tenant in common;
- (c) the rules and procedures shall not discriminate on the basis of sex; and
- (d) only Members are entitled to hold a permanent Interest in First Nation Land.

Interim Land Law

24.5 The Council may enact an interim Land Law as provided in section 24.1, provided that any such Land Law will expire twelve (12) months after the coming into force of this Land Code, unless re-enacted.

PART 5

LAND ADMINISTRATION

25. Lands Committee

Lands Committee established

25.1 The Lands Committee is hereby established, authorized and directed to:

- (a) make recommendations or comments to the Council on matters related First Nation Land, including the passing of Land Laws and Resolutions and the creation, granting, disposal, assigning or transferring of Interests or Licences in First Nation Land;
- (b) assist with the development of the land administration system;
- (c) advise and make recommendations to the Council and its staff on matters respecting First Nation Land;
- (d) make written recommendations to the Council on the allocation of residential lots to Members;
- (e) recommend Land Laws, Resolutions, policies and practices respecting First Nation Land to the Council;

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- (f) hold regular and special meetings of Members to discuss First Nation Land issues and make recommendations to the Council on the resolution of these First Nation Land issues;
- (g) assist in the communication of First Nation Land issues between Members and the Council;
- (h) oversee community approvals under this Land Code; and
- (i) attend to any other responsibilities given to the Lands Committee under this Land Code or by the Council.

Delegation of powers

25.2 The Council may delegate any of its land management powers under this Land Code to the Lands Committee. Such delegation shall be in writing and by Resolution, must be approved by the Council at a duly convened meeting and must be posted in the administrative offices of the First Nation to which the public has access.

Development of land related rules and procedures.

25.3 Within a reasonable time after this Land Code takes effect the Lands Committee, under the direction of the Council shall, in consultation with the Members ensure that Land Laws, rules and procedures, as may be appropriate, are developed that address the following matters:

- (a) environmental protection and assessment in relation to First Nation Land;
- (b) any outstanding issues on the resolution of disputes in relation to First Nation Land;
- (c) land use planning and zoning;
- (d) Article 24 respecting spousal separation and whether any change should be made to the policy upon which that section is based; and
- (e) any other matter referred to the Lands Committee by the Council.

Implementation of Policies

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

Internal procedures

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25.5 The Lands Committee may establish rules for the procedure at its meetings and generally for the conduct of its affairs, provided that they are not inconsistent with those established by the Council.

Rules for meetings

25.6 Meetings of the Lands Committee shall be conducted in accordance with the following procedures:

- (a) whenever possible, all meetings shall be held on First Nation Land provided that a meeting may be conducted by telephone or other facility which permits each member of the Lands Committee in attendance to communicate with all other members of the committee at the meeting;
- (b) the chairperson shall chair meetings, provided that, in the absence of the chairperson, another member of the committee appointed for that purpose by those in attendance shall chair a meeting;
- (c) the quorum for meetings of the Lands Committee shall be a majority of the members on the committee;
- (d) all decisions and actions of the Lands Committee shall be in accordance with a majority vote, which for greater certainty includes the chairperson, provided that a resolution in writing, signed by all of the members of the committee is as valid as if it had been passed at a meeting of the committee; and
- (e) written minutes of the proceedings at each meeting will be kept and the minutes of the preceding meeting approved or revised at the commencement of each meeting.

Quarterly meetings

25.7 Unless directed otherwise by the Council, the Lands Committee shall meet at least once every three months, provided that the committee shall meet at any time requested by the Council.

26. Membership of the Lands Committee

Composition

26.1 The Lands Committee shall be composed of five (5) Members, all of who must be Eligible Voters.

Eligibility to be appointed as a Lands Committee Member

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26.2 Any Eligible Voter other than a member of the Council, whether resident on or off First Nation Land, is eligible for appointment to the Lands Committee, except for the following persons:

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

Appointment of Lands Committee members

26.3 The members of the Lands Committee are to be appointed by the Council.

Term of office

26.4 The length of the term of office for members of the Lands Committee shall be determined by the Council.

Vacancy on Lands Committee

26.5 The office of a member of the Lands Committee becomes vacant if the person, while holding office:

- (a) dies or resigns;
- (b) is or becomes ineligible to hold office under section 26.2;
- (c) transfers his or her of membership to another First Nation;
- (d) is absent for three (3) consecutive duly convened meetings of the Lands Committee for a reason other than illness or incapacity, and without being authorized to do so by the Lands Committee;
- (e) is removed from the Lands Committee by the Council for just cause; or
- (f) is elected to a position on the Council of the First Nation.

Vacancy in term

26.6 Where the office of an appointed member of the Lands Committee becomes vacant for more than ninety (90) days before the date when another appointment would ordinarily be made, the Council shall make a special appointment in accordance with this Land Code to fill the vacancy.

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Balance of term of Office

26.7 A member of the Lands Committee appointed to fill a vacancy remains in office for the balance of the term in respect of which the vacancy occurred.

27. Chairperson of the Lands Committee

Chairperson

27.1 The Lands Committee shall appoint one of its members to be the chairperson of the Lands Committee.

Alternate chairperson

27.2 If the chairperson is unable to perform the functions of office, either temporarily or on a long-term basis, the Lands Committee shall appoint one of the other Lands Committee members to act as the chairperson.

Functions of chairperson

27.3 The functions of the chairperson include:

- (a) chairing meetings of the Lands Committee;
- (b) ensuring the preparation of financial statements relating to all activities of the Lands Committee;
- (c) tabling the Lands Committee's financial statements with the Council;
- (d) reporting to the Council on the activities of the Lands Committee; and
- (e) attending to any other responsibilities given to the chairperson under this Land Code or by the Council.

28. Revenue From Lands

Determination of Fees and rent

28.1 The Lands Committee shall, subject to the approval of the Council, establish the process and recommend any Land Laws, rules and policies for determining:

- (a) the fees and rent for Interests and Licences in First Nation Land;
- (b) the fees for services provided in relation to any First Nation Land; and

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- (c) the fees and royalties to be paid for the taking of natural resources from First Nation Land.

29. Registration of Interests and Licences

Enforcement of Interest and Licences

- 29.1 An Interest or Licence in First Nation Land created or granted after this Land Code takes effect is not enforceable unless it is registered in the First Nations Land Register.

Registration of Consent or approval

- 29.2 An instrument granting an Interest or Licence in First Nation Land that requires the consent of the Council, or community approval, shall include a certificate issued by the Land Manager indicating that the applicable consent or approval has been obtained.

Requirement of a certificate

- 29.3 An instrument registered in the First Nations Land Register which does not include the certificate referred to in section 29.2 is unenforceable.

Rules

- 29.4 The Council may make rules respecting the administration of the First Nations Land Register, the registration of Interests and Licences in it and the recording of any other matter, including but not limited to rules respecting:

- (a) the effects of registering Interests and Licences, including priorities;
- (b) the payment of fees for the registration of Interests and Licences and for any other service in relation to the register; and
- (c) the appointment, remuneration, powers, functions and duties of officers and employees who administer the register.

Duty to deposit

- 29.5 An original copy of the following instruments shall be deposited in the First Nations Land Register:

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

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30. Duplicate Lands Register

Maintain duplicate register

30.1 The Council may maintain a Duplicate Land Register in the same form and with the same content as the First Nations Land Register.

Duty of Member to deposit

30.2 Every person who receives an Interest or Licence in First Nation Land from a Member shall deposit an original copy of the relevant instrument with the First Nation.

PART 6

PROTECTION OF LAND

31. Expropriation

Rights and Interest that may be expropriated

31.1 Subject to 31.2, an Interest or Licence in First Nation Land, or in any building or other structure on those lands, may only be expropriated by the First Nation in accordance with the Framework Agreement and any Land Law enacted for the purpose of establishing the rights and procedures for expropriations.

Community purposes

31.2 An expropriation may only be made of First Nation Land, including First Nation Land that is subject to a Certificate of Possession, for a necessary community purpose or works of the First Nation, including but not limited to: a fire hall, sewage or water treatment facility, community center, public works, roads, schools, daycare facility, hospitals, health-care facility and retirement home.

Expropriation Land Laws

31.3 Before proceeding to make any expropriations in accordance with this Land Code, the Council shall enact a Land Law respecting the rights and procedures for expropriations, including provisions respecting:

- (a) the taking of possession of the Interest or Licence;
- (b) transfer of the Interest or Licence;
- (c) notice of expropriation and service of the notice of expropriation;

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- (d) entitlement to compensation;
- (e) determination of the amount of compensation; and
- (f) the method of payment of compensation.

Public report

31.4 Before the First Nation decides to expropriate an Interest or Licence, it shall make a public report on the reasons justifying the expropriation.

Rights that may not be expropriated

31.5 An Interest of Her Majesty the Queen in Right of Canada or the province of Saskatchewan is not subject to expropriation by the First Nation.

Acquisition by mutual agreement

31.6 The right of the First Nation to expropriate can only be exercised after a good faith effort to acquire, by mutual agreement, the Interest or Licence in First Nation Land.

Compensation for rights and Interests

31.7 The First Nation shall, in accordance with its Land Laws and the Framework Agreement:

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

Compensation calculations

31.8 In determining compensation under section 31.7 the First Nation shall apply the rules set out in the *Expropriation Act*, with such modifications as the circumstances require.

Neutral evaluation

31.9 A dispute concerning the right of the First Nation to expropriate an Interest or Licence in First Nation Land shall be reviewed by neutral evaluation, in the same manner as provided in Part IX of the Framework Agreement, and the sixty (60) day period referred to in section 32.6 of the Framework Agreement shall be applied, as appropriate in the circumstance, by the neutral evaluator.

Resolution of Disputes

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31.10 The resolution of the following disputes shall be determined by the Panel, in the same manner as provided in Part 8 of this Land Code:

- (a) disputes concerning the right of a person who claims an Interest or Licence in expropriated First Nation Land to compensation; and
- (b) disputes concerning the amount of the compensation to be paid to the person who held an Interest or Licence in expropriated First Nation Land.

32. Heritage Sites

Community approval of development

32.1 No development shall be allowed on any site designated as a heritage site under a land use plan, unless the development receives community approval by a Ratification Vote.

Land use plan

32.2 No amendment may be made to a land use plan to delete a heritage site unless the amendment receives community approval by a Ratification Vote.

33. Voluntary Land Exchanges and Protections

Conditions for a land exchange

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

No effect

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

Land to be received

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

- (a) it must be equal to or greater than the area of the First Nation Land to be exchanged;
- (b) it must be at least comparable to the appraised value of the First Nation Land; and
- (c) it must become a reserve and First Nation Land subject to this Land Code.

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Negotiators

33.4 The persons who will have authority to negotiate a land exchange agreement on behalf of the First Nation must be designated by Resolution.

Additional land

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

Federal Consent

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

- (a) consents to set apart as a reserve the land to be received in exchange, as of the date of the land exchange or such later date as the Council may specify by Resolution or as provided by an agreement with Canada; and
- (b) consents to the manner and form of the exchange as set out in the exchange agreement.

Community notice

33.7 Once negotiations on the land exchange agreement are concluded, the Council shall provide the following information to Eligible Voters at least twenty one (21) days before the Ratification Vote:

- (a) a description of the First Nation Land to be exchanged;
- (b) a description of the land to be received in the exchange;
- (c) a description of any other compensation to be exchanged;
- (d) a report of a certified land appraiser setting out that the conditions in section 33.3 have been met;
- (e) a copy or summary of the exchange agreement; and
- (f) a copy of the consent referred to in section 33.6.

Process of land exchange

33.8 The land exchange agreement shall provide that:

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- (a) the other party to the exchange must transfer to Canada the title to the land which is to be set apart as a reserve;
- (b) the Council must pass a Resolution authorizing Canada to transfer title to the First Nation Land being exchanged, in accordance with the exchange agreement; and
- (c) a copy of the instruments transferring title to the relevant parcels of land must be registered in the First Nations Lands Register.

PART 7

ACCOUNTABILITY

34. Conflict of Interest

Application of rules

34.1 The rules in section 34.2 apply to the following persons:

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

Duty to report and abstain

34.2 Any member of the Council, employee of the First Nation dealing with any matter that is related to First Nation Land or member of a board, committee or other body of the First Nation dealing with any matter that is related to First Nation Land who has any interest, financial or otherwise, in the matter being dealt with that might involve the person or his or her Immediate Relatives:

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

Not applicable to interest in common

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34.3 Section 34.2 does not apply to any interest that is held by a Member in common with every other Member.

Meeting of Eligible Voters

34.4 If the Council is unable to vote on a proposed Land Law or Resolution due to a conflict of interest, the Council may refer the matter to a Meeting of Members and, subject to section 13.5, may enact the Land Law or Resolution.

Inability to act

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

Specific Conflict situations

34.6 Because of the unusual conflicts of interest possible in the First Nation, not more than two Members from the same extended family may be members of a board, committee or other body other than the Council dealing with any matter that is related to First Nation Land.

Disputes

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

Other Land Laws

34.8 For greater certainty, the Council may enact Land Laws or Resolutions to further implement this section.

35. Financial Management

Application

35.1 This section applies only to financial matters relating to First Nation Land.

Establishment of Bank accounts

35.2 The Council shall maintain one or more financial accounts in a financial institution that is a member institution to which the Canada Deposit Insurance Corporation has a duty to insure deposits pursuant to the *Canada Deposit Insurance Act* R.S.C. 1985, c. C-3, as amended, and shall make all deposits into those accounts, including:

- (a) transfer payments received from Canada for the management and administration of First Nation Land;

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

Signing officers

35.3 The Council shall authorize at least three persons, one of whom shall be a member of the Council, to sign cheques and other bills of exchange or transfers drawn on the account.

Two signatures

35.4 To be valid, a cheque or other bill of exchange or transfer drawn on the account must be signed by two signing officers, one of whom must be a member of the Council.

Fiscal year

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

Adoption of budget

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

Procedure

35.7 After adopting the land management budget or supplementary budget, the Council shall, without undue delay:

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

If no budget

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

Budget rules

35.9 The Council may make rules respecting the preparation and implementation of land management budgets.

Expenditures

35.10 The Council may not expend moneys related to First Nation Land or commit itself, by contract or otherwise, to expend moneys related to First Nation Land, unless the expenditure is authorized by or under a Land Law or an approved budget.

Financial Policy

35.11 The First Nation may, in accordance with this Land Code, adopt a financial policy to further manage moneys related to First Nation Land.

36. Financial Records

Financial records

36.1 The First Nation shall keep financial records related to First Nation Land and shall do so in accordance with generally accepted accounting principles.

Offences

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

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

Preparation of financial statement

36.3 Within ninety (90) days after the end of each fiscal year, the Council on behalf of the First Nation shall prepare a financial statement in relation to matters related to First Nation Land in comparative form, containing at a minimum:

- (a) a balance sheet;

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

Consolidated Accounts, etc.

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

37. Audit

Appointment of Auditor

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

Holding of Office

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

Vacancy in office

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

Remuneration

37.4 The auditor's remuneration shall be fixed by the Council.

Duty of auditor

37.5 The auditor shall, within one hundred and twenty (120) days after the end of the First Nation's fiscal year, prepare and submit to the Council a report on the First Nation's financial statement, stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of the First Nation in relation to matters related to First Nation Land in accordance with generally accepted accounting principles.

Access to records

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

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Explanation of Auditor's report

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

38. Annual Report

Publish annual report

38.1 The Council, on behalf of the First Nation, shall publish an annual report on First Nation Land issues within one (1) month of receipt of the auditor's report.

Contents

38.2 The annual report will include:

- (a) an annual review of First Nation Land management;
- (b) a copy and explanation of the audit as it applies to First Nation Lands; and
- (c) any other matter as determined by the Council.

39. Access to Information

Access

39.1 Any Member may, during normal business hours at the main administrative office of the First Nation, have reasonable access to:

- (a) the register of Land Laws and Resolutions;
- (b) the auditor's report; and
- (c) the annual report on First Nation Lands.

Copies for Members

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

Access to Financial Records - Members

39.3 Any Member may, at any reasonable time, inspect the financial records of the First Nation related to First Nation Land and First Nation Land related matters.

Access to Financial Records - Other Persons

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39.4 Any person authorized by the Council in writing may, at any reasonable time, inspect the financial records of the First Nation related to First Nation Land and First Nation Land related matters.

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PART 8

DISPUTE RESOLUTION

40. DISPUTE RESOLUTION PANEL

Panel established

40.1 The Dispute Resolution Panel is hereby established with jurisdiction to resolve disputes in relation to First Nation Land and to establish its own procedures.

Appointment of Panel

40.2 The Panel shall be composed of five (5) panelists.

Representation

40.3 The Council shall appoint the panelists as and when required.

Remuneration

40.4 The Council shall determine the remuneration to be paid to the panelists.

41. Dispute Resolution Procedure

Disputes

41.1 Any Member whose Interest or Licence in First Nation Land, or any non-Member whose lease or Licence in First Nation Land, is affected by a decision of the Council or Lands Committee may appeal the decision to the Panel.

Optional process

41.2 For greater certainty, an application to the Panel to resolve a dispute is optional and all other civil remedies continue to be available to Members and non-Members.

Disputes not resolved by Council

41.3 If a Member with an Interest or Licence in First Nation Land, or a non-Member with a lease or Licence in First Nation Land, has a dispute with respect to a decision of the Council or a recommendation of the Lands Committee, the person must first attempt to resolve that dispute with the Council or the Lands Committee before referring the dispute to the Panel.

Disputes not resolved by Council or the Lands Committee

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41.4 If there is an appealable dispute that cannot be resolved by the Council or the Lands Committee, a Member with an Interest or Licence in First Nation Land or a non-Member with a lease or Licence in First Nation Land may appeal the dispute to the Panel in accordance with this Article.

Application Procedures

41.5 Applications to the Panel shall be made in accordance with the procedures established by this Land Code, any Land Law and the Panel.

Majority Vote

41.6 All decisions and actions of the Panel shall be in accordance with a majority vote, which for greater certainty includes the chairperson, if any.

Limitation period

41.7 An application to refer a dispute with respect to a decision of the Council or a recommendation of the Lands Committee to the Panel shall be made:

- (a) within thirty (30) days after the day the decision, act or omission being referred was made; or
- (b) in the case of a dispute with the Council or the Lands Committee, within thirty (30) days after the Council or Lands Committee rejects the attempts at resolution made under section 41.3.

Appeal procedures

41.7 Subject to any Land Law, an appeal shall be made and determined in accordance with the following procedures:

- (a) a person wishing to commence an appeal shall, within thirty (30) days of the day the decision, act or omission being appealed was made, or in the case of a dispute with the Council or the Lands Committee, within thirty (30) days after the Council or Lands Committee rejects the attempts at resolution made under section 41.3, file a notice of appeal by forwarding to the Council, notice of his or her appeal, along with a statutory declaration setting out the matter which the person is appealing and the grounds of the appeal;
- (b) within ten (10) working days of receiving the notice of appeal the panelists shall be appointed in accordance with section 40.3;
- (c) the Council shall within five (5) working days of the panelists being appointed, forward to the Panel and the Lands Committee the notice of

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- appeal and statutory declaration received from the person making the appeal;
- (d) the Council and the Lands Committee shall within ten (10) working days of the Council sending the notice of appeal and statutory declaration to the Panel and the Lands Committee, forward to the Panel statutory declarations containing answers to the particulars set out in the person's statutory declaration;
 - (e) the Panel shall within five (5) working days of receiving the information from the Council and the Lands Committee forward the statutory declarations received from the Council and the Lands Committee to the person making the appeal;
 - (f) the person making the appeal may, within five (5) working days of receiving the information from the Panel, forward to the Panel a statutory declaration containing answers to the particulars set out in the Council's or the Lands Committee's statutory declarations;
 - (g) the Panel shall, unless agreed otherwise by the Council and the person making the appeal, provide its decision in writing within thirty (30) days of receiving the statutory declarations;
 - (h) the Panel may conduct such investigation or hold any hearings as it deems necessary to dispose of the appeal; and
 - (i) the Panel may establish any procedures necessary to conduct an appeal, provided such procedures are not inconsistent or in conflict with this Land Code or any Land Law.

42. Impartiality

Duty to Act Impartially

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

Offence

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

Rejection of Application

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

43. Powers of Panel

Powers of Panel

43.1 The Panel may, after hearing a dispute:

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

Rules of Panel

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

Professional services

43.3 With the consent of the Council, the Panel may obtain the service of professionals to assist it in fulfilling its functions.

Written decisions

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

Reasons

43.5 The Panel may give reasons for its decision and shall do so in writing if a party to the proceedings requests them in writing within fourteen (14) days after the date of the decision.

Appeal of decision

43.6 A decision of the Panel is final and binding on the parties but is subject to review by the Federal Court (Trial Division).

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PART 9

OTHER MATTERS

44. Indemnity and Liability

Indemnity

44.1 Members of the Council, the Lands Committee, the Panel and officers and employees of the First Nation engaged in carrying out any matter related to the administration of First Nation Land are indemnified and saved harmless by the First Nation from all claims, liabilities and demands of any kind or nature whatsoever arising from the performance of their obligations and duties under this Land Code, a Land Law or a Resolution, provided they have not acted fraudulently or in bad faith in the performance of their obligations and duties.

Liability Coverage

44.2 The Council may, but is not obligated to, arrange, maintain and pay for insurance coverage for members of the Council, the Lands Committee, the Panel and officers and employees of the First Nation engaged in carrying out any matter related to the administration of First Nation Land to indemnify them against personal liability arising from the performance of those duties.

Extent of coverage

44.3 The extent of the insurance coverage, if any, shall be determined by the Council.

45. Offences

Application of the Criminal Code

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

Fine or Imprisonment

45.2 Any person who commits an offence under this Land Code or a Land Law is liable to a fine not to exceed \$5,000 and to a term of imprisonment not to exceed six (6) months or to both fine and imprisonment, provided however, that offences related to First Nation environmental protection Land Laws may carry penalties consistent with similar environmental protection laws in force in Canada.

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Land Law may alter penalties

45.3 A Land Law may provide for a penalty which is different than the penalties referred to in section 45.2.

46 Amendments to Land Code

Community approval

46.1 Subject to section 46.2, amendments to this Land Code must receive approval by Ratification Vote to be effective.

Revisions

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

- (a) a reference in this Land Code to a section in another Act or document that has been amended and resulted in section renumbering;
- (b) a reference in this Land Code to an Act or parts thereof that have expired, have been repealed or suspended;
- (c) minor improvements in the language as may be required to bring out more clearly the intention of the First Nation without changing the substance of the Land Code;
- (d) changes in this Land Code as are required to reconcile seeming inconsistencies with other Acts;
- (e) correcting editing, grammatical or typographical errors; and
- (f) an addition of lands that are made subject to this Land Code under section 5.2.

47 General Provisions

General Provisions

47.1 The definitions as set forth in the *First Nations Land Management Act* and the Framework Agreement shall have the same meaning in this Land Code.

47.2 Where the time limited for the doing of an act expires or falls on a Saturday or Sunday or

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a federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday.

- 47.3 Where the time limited for the doing of an act in the First Nation administration building falls on a day when the office is not open during regular business hours, the act may be done on the next day that the office is open.
- 47.4 Where there is a reference to a number of days or a number of days between two events, in calculating that number of days, the days on which the events happen are excluded.
- 47.5 This Land Code is not intended to affect the eligibility of the First Nation or any Member to receive services or participate in such public or aboriginal programs as may be established from time to time to the extent that the First Nation has not assumed responsibility for such services or programs.
- 47.6 The principles set out in the Preamble to this Land Code may be used to interpret this Land Code.
- 47.7 In this Land Code:
- (a) The use of the word “shall” denotes an obligation that, unless this Land Code provides to the contrary, must be carried out as soon as practicable after this Land Code comes into effect or the event that gives rise to the obligation;
 - (b) Unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;
 - (c) Headings and subheadings are for convenience only, do not form a part of this Land Code and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Land Code;
 - (d) A reference to a Land Law includes every amendment to it and any Land Law enacted in substitution for it or in replacement of it;
 - (e) Unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular; and
 - (f) Unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine.

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48 Commencement

Preconditions

48.1 This Land Code shall take effect if the First Nation approves this Land Code and the Transfer Agreement with Canada and this Land Code has been certified by the verifier pursuant to the Framework Agreement.

Commencement date

48.2 This Land Code shall take effect on the first day of the month following the certification of this Land Code by the verifier.

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