

SCHEDULE "A" TO RESOLUTION NO.



**MISSISSAUGAS OF SCUGOG ISLAND FIRST NATION
RESTATED LAND MANAGEMENT CODE 2021**



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PREAMBLE

Whereas the Mississaugas of Scugog Island First Nation is a signatory to the *Framework Agreement on First Nation Land Management* dated February 12, 1996, which was ratified on behalf of the Government of Canada by the *First Nations Land Management Act*, S.C. 1999, c. 24, and which was ratified by the Mississaugas of Scugog Island First Nation by the enactment of the *Mississaugas of Scugog Island First Nation Land Management Code*, which was certified on 08 September 1997; and

Whereas amendments to the original *Mississaugas of Scugog Island First Nation Land Management Code* were ratified and made effective on 06 July 2016; and

Whereas the Mississaugas of Scugog Island First Nation wish to further amend and restate the *Mississaugas of Scugog Island First Nation Land Management Code* to establish a comprehensive land management regime, consistent with the *Framework Agreement* and the *First Nations Land Management Act*, which shall be the fundamental land law governing the Mississaugas of Scugog Island First Nation Land to which it applies;

The Mississaugas of Scugog Island First Nation enacts as follows:

PART 1 PRELIMINARY MATTERS

Title

1.01 This Land Code 2021 may be referred to as the *Mississaugas of Scugog Island First Nation Restated Land Management Code 2021*.

Definitions

1.02 In this Land Code 2021:

- (a) “Annual Land Management Report” means the report referred to in section 8.02;
- (b) “Canada” means Her Majesty the Queen in Right of Canada and “Ontario” means Her Majesty the Queen in Right of Ontario;
- (c) “certificate of allocation” means an instrument issued by Council pursuant to this Land Code 2021 which grants exclusive possession of a parcel of First Nation Land to one or more registered members for residential purposes;

- (d) “certificate of possession” means an instrument issued by the Minister pursuant to the Indian Act prior to the coming into force of the Land Code 2021, which granted exclusive possession of a parcel of First Nation Land to one or more registered members;
- (e) “Community Land” means all Mississaugas of Scugog Island First Nation Land other than land allotted to one or more registered members by certificate of allocation or certificate of possession;
- (f) “community approval” means approval by a vote of the eligible voters as provided in PART 5;
- (g) "community consultation" means a meeting of the registered members convened by Council for the purpose of consulting with those registered members on a proposed land law prior to its enactment;
- (h) “community works” means any facilities or services deemed by Council to be for the general benefit of the Mississaugas of Scugog Island First Nation community, and includes services operated, provided or delivered by the Mississaugas of Scugog Island First Nation or by a person or body authorized to do so on behalf of the Mississaugas of Scugog Island First Nation by a land law;
- (i) “conjugal partnership” means the relationship between two persons who are married to each other or, if not married to each other, who have been cohabiting in a conjugal relationship for a period of at least two years or who are the parents of a child by birth or adoption and have been cohabiting in a conjugal relationship for a period of at least one year;
- (j) “Council” means the elected Chief and Council of the Mississaugas of Scugog Island First Nation or any successor government of the Mississaugas of Scugog Island First Nation elected by its registered members;
- (k) “elder” means a person appointed by Council for the purposes of a healing circle pursuant to section 12.05;
- (l) “eligible voter” means:
 - (i) for the purpose of voting under this Land Code 2021, a registered member who has attained

eighteen (18) years of age on or before the day of the vote; and

- (ii) for the purpose of giving notice where Council has fixed a record date pursuant to subsection 5.05(e), a registered member who has attained eighteen (18) years of age on or before the record date;
- (m) “*Expropriation Act*” means the Expropriation Act, R.S.C., 1985, c. E-2;
- (n) “*First Nations Land Registry*” means the registry established by Canada pursuant to clause 51 of the *Framework Agreement* and regulated by the First Nations Land Registry Regulations (SOR/2007-231) enacted pursuant to the First Nations Land Management Act, or any successor thereto approved by land law;
- (o) “*Framework Agreement*” means the *Framework Agreement* on First Nation Land Management, entered into between Canada and the signatory First Nations, including the Mississaugas of Scugog Island First Nation, on 12 February 1996;
- (p) “*immediate family*” includes a person’s parents, siblings, spouse and children;
- (q) “*including*” does not limit generality unless the intent to limit is expressly stated;
- (r) “*Individual Agreement*” means the Individual Agreement between Mississaugas of Scugog Island First Nation and Canada pursuant to clause 6.1 of the *Framework Agreement*, including any amendments thereto;
- (s) “*interest*”, in relation to Mississaugas of Scugog Island First Nation Land, means any interest, right or estate of any nature in or relating to that land, including a certificate of possession, certificate of allocation, lease, easement, right of way, servitude, or *profit à prendre*, but does not include title to or a licence relating to that land;
- (t) “*izhitwaawin site*” means a location or feature of spiritual, historic, cultural or other significance to the Mississaugas of Scugog Island First Nation people;

- (u) “Land Code 2021” means this *Mississaugas of Scugog Island First Nation Restated Land Management Code 2021*;
- (v) "land law" means a law enacted under this Land Code 2021;
- (w) “Mississaugas of Scugog Island First Nation Land” and “First Nation Land” mean all of the land, including waters, to which this Land Code 2021 applies;
- (x) “Mississaugas of Scugog Island First Nation website” and “the First Nation’s website” means a website maintained by the Mississaugas of Scugog Island First Nation which may include both public pages and restricted pages accessible only by authenticated registered members;
- (y) "office holder" means a person authorized by this Land Code 2021 or a land law to exercise a power or to perform any duty or function in relation to First Nation Land or interests or licences therein, and includes the Chief, Councillors, enforcement officers, Justices of the Peace, prosecutors, members of any board, committee or other body and employees of the Mississaugas of Scugog Island First Nation charged with such powers, duties or functions;
- (z) “public access land” means First Nation Land which is open for use, not including residential use, by the general public pursuant to the terms of a land law, lease or other interest, right in or licence relating to Mississaugas of Scugog Island First Nation Land; and
- (aa) “registered member” means a person whose name appears on, or who is entitled to have their name appear on, the membership list of the Mississaugas of Scugog Island First Nation; and
- (bb) “spouse” means each of the members of a conjugal partnership in relation to the other.

Computation of time

- 1.03 The rules in sections 26 to 30, inclusive, of the *Interpretation Act*, R.S.C., 1985, c. I-21, as amended from time to time, shall apply to all computations of time in this Land Code 2021, provided that, notwithstanding section 26 of that Act, Council may expressly

provide by resolution that a thing shall be completed or done on a holiday.

Consistency and paramountcy – Framework Agreement

1.04 Where any provision of this Land Code 2021 is inconsistent or conflicts with the *Framework Agreement*, the *Framework Agreement* will prevail to the extent of the inconsistency or conflict.

Consistency and paramountcy – Other enactments

1.05 Where any provision of this Land Code 2021 is inconsistent or conflicts with the provisions of any other enactment of the Mississaugas of Scugog Island First Nation, including a by-law enacted under the *Indian Act*, this Land Code 2021 will prevail to the extent of the inconsistency or conflict.

Indigenous, aboriginal, treaty and constitutional rights

1.06 Nothing in this Land Code 2021 abrogates or derogates from the Indigenous, aboriginal, treaty, inherent or other rights or freedoms that pertain now or in the future to the Mississaugas of Scugog Island First Nation or its Registered members.

PART 2 LANDS AFFECTED

Lands and interests affected

2.01 This Land Code 2021 applies in respect of all of the land within Mississaugas of Scugog Island Reserve No. 34 and any other lands which may be added to Reserve No. 34 or to the Individual Agreement from time to time and, within those lands, governs:

- (a) all the interests and rights, as well as the resources within or belonging to that land to the extent these are under the jurisdiction of Canada and are part of that land;
- (b) the water, beds underlying water, riparian rights, and renewable and non-renewable natural resources in and of that Land, to the extent that these are under the jurisdiction of Canada;
- (c) all the interests, rights and licences granted by Canada listed in the Individual Agreement; and
- (d) all the interests, rights and licences granted by the Mississaugas of Scugog Island First Nation after this Land Code 2021 comes into effect.

PART 3 EXECUTIVE AUTHORITY

Authority to manage land

- 3.01 Except as otherwise expressly provided in this Land Code 2021, the power and authority to manage Mississaugas of Scugog Island First Nation Land and to implement this Land Code 2021 and land laws or other instruments enacted under it shall be vested in and carried out by Council or by any person or body to whom a power is delegated by Council or by a land law.

PART 4 LEGISLATIVE AUTHORITY

Power to enact land laws

- 4.01 Council has the power to make land laws in accordance with this Land Code 2021 respecting
- (a) interests and rights in or licences relating to Mississaugas of Scugog Island First Nation Land;
 - (b) the development, conservation, protection, management, use and possession of Mississaugas of Scugog Island First Nation Land; and
 - (c) any matter arising out of or ancillary to the exercise of that power.

Particular powers

- 4.02 Without restricting the generality of section 4.01, Council may enact land laws respecting:
- (a) the regulation, control or prohibition of land use and development including zoning and subdivision control;
 - (b) the creation, acquisition and granting of interests or rights in and licences in relation to First Nation Land and prohibitions in relation thereto;
 - (c) environmental assessment, permitting and protection, in accordance with the terms and conditions set out in the *Framework Agreement*;
 - (d) the provision of local services in relation to First Nation Land and the imposition of equitable user charges for those services;

- (e) the provision of services for the resolution of disputes in relation to First Nation Land; and
- (f) enforcement measures, consistent with federal laws, including the power to inspect, search and seize and to order compulsory sampling, testing and the production of information.

Offences created by land laws

- 4.03 A land law, regulation or other instrument created with community consultation or community approval may include enforcement measures consistent with federal laws and, without limiting generality
- (a) may create offences punishable in accordance with the summary conviction procedures of the *Criminal Code* as amended from time to time;
 - (b) may provide for the imposition of fines, imprisonment, restitution, community service and any other means for achieving compliance provided therein; and
 - (c) as provided in the *Framework Agreement*, land laws governing environmental protection shall include standards and punishments having at least the same effect as those in the laws of the province of Ontario.

Regulations, standards, code and policies

- 4.04 A land law may authorize Council to enact or adopt regulations, standards, codes or policies, by resolution in open session, which shall be enforceable as provided in the land law.

PART 5 ENACTMENT OF LAND LAWS

Definition

- 5.01 In this Part, “land law proposal” means a written proposal for a land law, setting out
- (a) the subject matter of the proposed land law and what it is intended to accomplish;
 - (b) the benefit of the proposed land law to the Mississaugas of Scugog Island First Nation;

- (c) optionally, an outline or draft of the proposed land law; and
- (d) reference to a provision of this Land Code 2021 authorizing Council to enact the proposed land law.

Motion to consider a land law proposal

- 5.02 Any member of Council may, by motion in an open session of Council, submit a land law proposal for consideration.
- 5.03 An eligible voter may, at the time provided in the agenda or with the leave of the Chair, in an open session of Council, request that Council consider a land law proposal.

Council procedure upon receipt of land law proposal

- 5.04 Upon or subsequent to adopting a resolution to consider a land law proposal, Council may, in an open session of Council:
- (a) request that the proposer or any other person, committee or body provide further information, documentation or review in relation to the land law proposal;
 - (b) undertake or direct the preparation of draft wording for a land law concerning matters raised in the land law proposal;
 - (c) if the land law proposal includes or is in the form of a draft land law satisfactory to Council, table the draft land law for enactment; or
 - (d) decline the land law proposal.

Tabling a draft land law

- 5.05 A resolution tabling a draft land law for enactment shall include:
- (a) the draft wording of the proposed land law, which may be subject to amendment until enacted by Council;
 - (b) the purpose or intent of the land law, the provisions of this Land Code 2021 which authorize Council to enact the land law and the benefit of the land law to the Mississaugas of Scugog Island First Nation;

- (c) the date, time, location and other particulars of any community consultation or community approval which may be required in respect of the draft land law;
- (d) the date, time and location of an open session of Council, not less than 28 days after the date of the tabling resolution, at which Council may consider the enactment of the draft land law; and
- (e) other matters relevant to the enactment process, including a registered membership record date for notice purposes and any additional methods of providing notice to eligible voters as provided in section 5.06(c), as Council deems necessary.

Notice that draft land law was tabled

- 5.06 At least 21 days before the date of the first open session of Council at which the draft land law may be enacted, Council shall cause notice to be given to the eligible voters by:
- (a) posting a copy of the tabling resolution on a notice board accessible to registered members in the administration offices of the Mississaugas of Scugog Island First Nation;
 - (b) posting notice or a copy of the tabling resolution on the Mississaugas of Scugog Island First Nation website on pages accessible to registered members; and
 - (c) any other methods specified in the tabling resolution or other resolution of Council.

Community consultation

- 5.07 Council may by resolution provide that a proposed land law shall be subject to community consultation prior to its enactment.

Community approval vote

- 5.08 Land laws in respect of the following matters may be enacted by Council only with community approval:
- (a) comprehensive land use planning and approval controls for Mississaugas of Scugog Island First Nation Land, as provided in subsection 7.02(a);
 - (b) an environmental stewardship regime affecting all or substantially all of the land within the reserve, as provided in subsection 7.02(b);

- (c) a grant or disposition of an interest, right in or licence relating to Community Land by the First Nation to a person other than a registered member for a term exceeding 25 years;
- (d) the designation of an *izhitwaawin* site and any amendment or cancellation of a designation;
- (e) general rules and procedures respecting, in cases of breakdown of marriage and other conjugal partnerships, the use, occupation and possession of Mississaugas of Scugog Island First Nation Land and the division of interests or rights in that land;
- (f) any matter submitted to the eligible voters pursuant to the conflict of interest rules in PART 13;
- (g) any voluntary exchange of Mississaugas of Scugog Island First Nation Land referred to in section 15.02 of this Code; and
- (h) any land law or class of land law that Council, by resolution, declares to be subject to a community approval vote.

Particulars of community approval vote process

5.09 Council may adopt a resolution regarding the procedure for obtaining a community approval including:

- (a) the date, time, place of the vote;
- (b) the manner in which the vote shall be conducted including the methods of voting; and
- (c) any increase in the number of votes required to be cast, over the minimum prescribed by section 5.11(a), in order for the vote to be certified.

Voting Officer

5.10 Council may appoint a voting officer responsible to conduct a community approval vote including such matters as finalizing the voters list; preparing the ballot; the giving of notice; registering voters; conducting the vote on the date and time and in the place determined by resolution of Council; tallying such votes as the voting officer determines to be valid; certifying the results of the

vote; and any other matters ancillary thereto including appointing one or more deputy voting officers.

Majority approval

- 5.11 A matter shall be deemed to have received community approval only if, as certified by the voting officer:
- (a) at least twenty percent (20%) of eligible voters, or such higher percentage of eligible voters as may be specified by Council by resolution, cast votes in respect of the matter; and
 - (b) a majority of the unspoiled votes approve the matter.

Eligible voters may vote in own interest

- 5.12 Notwithstanding the conflict of interest provisions of this Land Code 2021, any eligible voter may vote in any community approval in his or her own interest.

Community approval and community consultation

- 5.13 A requirement for community consultation in relation to a land law shall be deemed to be satisfied by community approval.

Notice of community processes

- 5.14 Where notice is required to be delivered to eligible voters pursuant to a resolution of Council or this Land Code 2021:
- (a) the notice shall include:
 - (i) a brief description of the matter to be discussed or decided and a draft of, or internet link to, the land law in respect of which Council is seeking community consultation or community approval;
 - (ii) the date, time and place of any information meeting, community consultation or community approval;
 - (iii) in the case of a community approval vote, the questions to be submitted to a vote and the methods and other particulars of the voting process including any increase in the minimum number of votes required to be cast for the vote to be certified;

- (iv) other information and material that Council considers appropriate.
- (b) the notice shall be posted in a public place in the First Nation's administration offices, on the First Nation's website;
- (c) the notice, in paper form, or electronic copy of the notice on a portable storage device, shall be
 - (i) sent by mail or email to those registered members or eligible voters for whom the Mississaugas of Scugog Island First Nation has obtained an email or mailing address as of a record date fixed by resolution of Council; and
 - (ii) made available in the First Nation's administration offices to any eligible voter who requests it; and
- (d) a single notice sent by email or mail to multiple eligible voters who share an email or mail address as at the record date shall be deemed to be notice to all such eligible voters.

Resolution to enact a land law

5.15 A resolution enacting a land law shall include recitals confirming:

- (a) that a draft of the land law was tabled and that notice of the tabling of the draft land law given to eligible voters as provided in this Part;
- (b) that Council has determined that all procedures required for the enactment of the land law, including, without limitation, tabling and notice requirements and community consultation or community approval were duly completed, and that any procedural irregularities were minor and of no material effect;
- (c) that the wording proposed for enactment is either
 - (i) unamended from the draft land law as tabled, and as included in any notice to eligible voters; or
 - (ii) amended but:

- (1) in the case of a land law for which a community approval was required, that the amendments were to correct typographical errors or drafting errors or for clarity, and, in the opinion of Council, do not alter the substance or intent of the draft land law provided for the purpose of the vote; and
- (2) in the case of a land law for which community approval was not required, that the amendments were either to correct typographical errors or drafting errors or for clarity or to respond to issues raised by registered members or others, and that, in the opinion of Council, the amendments do not alter the substance or intent of the draft land law.

Emergency land law

5.16 Notwithstanding any other provision of this Land Code 2021:

- (a) Council may enact an emergency land law without the preliminary steps required in sections 5.04 to 5.15 inclusive, where Council is of the opinion that the law is needed urgently to protect Mississaugas of Scugog Island First Nation Land or the registered members or other persons within those lands.
- (b) a resolution enacting an emergency land law shall specify the in force date and the expiry date of the Emergency land law and shall provide for the giving of notice of the enactment to registered members and others; and
- (c) an emergency land law shall expire 180 days after its enactment but may be re-enacted in accordance with this section 5.16.

Approval of enacting resolution

5.17 An resolution to enact a land law shall be subject to approval by a majority vote of the Council in open session.

When in force

5.18 A land law, regulation or other instrument shall be in force on the date of its enactment or such other date as may be specified in the enactment or instrument.

PART 6 CERTIFICATION, PUBLICATION AND REGISTRATION OF LAND LAWS AND OTHER INSTRUMENTS

Certification

- 6.01 A land law, regulation, standard, code, policy or other instrument enacted by Council containing the recitals required by section 5.15 shall be deemed validly enacted, subject to proof otherwise, if certified by the signature of:
- (a) a quorum of the Council present at the meeting at which it was enacted; or
 - (b) such other person designated for certification purposes by resolution of the Council.

Publication

- 6.02 Every land law, regulation, standard, code or policy shall be recorded in the minutes of the Council meeting at which it is adopted and published within ten days after enactment by posting a certified copy for not less than sixty days:
- (a) on a notice board accessible to registered members in the administration offices of the Mississaugas of Scugog Island First Nation;
 - (b) on a registered member-accessible portion of the Mississaugas of Scugog Island First Nation website; and
 - (c) where Council so directs, by publication of a notice of the land law or other instrument in the *First Nations Gazette* or a similar publication.

MSIFN Land Law Registry

- 6.03 Council shall establish and maintain a Mississaugas of Scugog Island First Nation Land Laws Registry under the direction of a Registrar of Land Laws.

Books of record

- 6.04 The Registrar of Land Laws shall maintain the following records:
- (a) a registry containing original or electronic images of certified copies of all Land Code 2021 enactments and other instruments submitted by Council and accepted for registration, together with any supporting documentation required by the Land Code 2021 or

included by reference in the enactment, endorsed by the Registrar with the time and date of registration thereof; and

- (b) a land laws abstract index containing an abstract of each registered instrument, including a notation of whether the instrument is in force, spent or repealed, organized by the parcels of Mississaugas of Scugog Island land, including any reserves as a whole, to which each instrument applies.

MSIFN Land Laws Registry Regulations

- 6.05 Council may enact regulations from time to time governing the operation of the Mississaugas of Scugog Island First Nation Land Laws Registry.

Registration of land laws and other instruments

- 6.06 Subject to the establishment of the Mississaugas of Scugog Island First Nation Land Laws Registry, Council shall submit to the Registrar of Land Laws a certified copy of every land law, regulation or other instrument adopted by Council pursuant to this Land Code 2021, signed by a majority of a quorum of Council or by a person appointed by Council to certify its enactments, for registration or recording against the lands affected, including notices that instruments previously registered or recorded have been amended, repealed or are no longer in force.

Public Access

- 6.07 Any person may have reasonable viewing access to the land laws register, the land laws abstract index and registered instruments during normal business hours in the administrative offices of the Mississaugas of Scugog Island First Nation, and may obtain from the Registrar of Land Laws a copy of any registered instrument on payment of an administrative fee fixed by Council, provided that the Registrar of Land Laws shall redact from the publicly viewable portions of the register, the abstract index, any registered instruments and any copies thereof, any information which the First Nation is prohibited from disclosing without the prior consent of a third party, unless that consent is provided.

PART 7 LAND MANAGEMENT

Land management powers of Council

- 7.01 Council may, in accordance with this Land Code 2021,

- (a) exercise the powers, rights and privileges of an owner in relation to the lands to which this Land Code 2021 applies;
- (b) grant interests or rights in and licences in relation to the land;
- (c) manage the natural resources of the land; and
- (d) receive and use all moneys acquired by or on behalf of the Mississaugas of Scugog Island First Nation pursuant to this Land Code 2021 and land laws or other instruments enacted under it.

Land use planning, environmental stewardship and resource revenues

7.02 Without limitation of Council's management powers provided in section 7.01, Council shall be committed to the development and implementation, in consultation with registered members, of the following land management regimes, laws and policies:

- (a) comprehensive land use planning and approval controls for Mississaugas of Scugog Island First Nation Land, including:
 - (i) a general land use plan and development scheme for the lands to which this Land Code 2021 applies,
 - (ii) zones of permitted and prohibited land uses;
 - (iii) prohibitions and controls on the subdivision of land; and
 - (iv) development controls including authorities, processes and procedures for reviewing applications for the improvement of lands and premises or changes in land use;
- (b) an environmental stewardship regime for Mississaugas of Scugog Island First Nation Land providing for:
 - (i) the identification, protection and restoration of *izhitwaawin* sites and features of natural, historical, scientific, spiritual or cultural interest; and

- (ii) environmental assessment, permitting and protection in accordance with the procedures, terms and conditions set out in the *Framework Agreement*;
- (c) general rules and procedures respecting, in cases of breakdown of marriage and other conjugal partnerships, the use, occupation and possession of Mississaugas of Scugog Island First Nation Land and the division of interests or rights in that land;
- (d) general rules and procedures respecting revenues generated from:
 - (i) natural resources produced or obtained from First Nation Land; and
 - (ii) the provision of local services in relation to First Nation Land and the imposition of equitable user charges for those services; and

Interim Development Controls

7.03 Until the enactment and coming into force of a comprehensive land use plan and environmental stewardship laws for Mississaugas of Scugog Island First Nation, no person may undertake, construct, complete, occupy, use or operate premises on Mississaugas of Scugog Island First Nation land for any purpose other family residential use except as authorized by a development permit issued by Council on the basis of a land uses review including, where Council so directs, an environmental assessment in accordance with the Individual Agreement.

Advisory Committees and Working Groups

7.04 Council may from time to time appoint advisory committees or working group to advise Council, to assist in the development of laws, policies and regulations, to assist in community engagement or to perform such other duties as may be delegated or assigned by resolution of Council or by land law under this Land Code 2021.

PART 8 FINANCIAL ADMINISTRATION, REPORTING AND ACCOUNTABILITY

Financial Management

8.01 All financial matters in relation to the management of land under this Land Code 2021 shall be subject to financial administration and accounting laws or policies approved by the First Nations Financial Management Board or compliant with International Financial Accounting Standards, as approved by Council from time to time.

Annual Land Management Report

8.02 Within twelve months of the First Nation's fiscal year end, Council, on behalf of the Mississaugas of Scugog Island First Nation, shall publish for the benefit of registered members an Annual Land Management Report which shall include, for the reported period:

- (a) a summary of:
 - (i) interests, rights and licences created, granted or cancelled in Mississaugas of Scugog Island First Nation Land, including any expropriations;
 - (ii) land laws regulations, standards, codes or policies enacted by Council or coming into force; and
 - (iii) the findings and recommendations of any completed operational, financial or governance review;
- (b) an update on the implementation of section 7.02; and
- (c) an audited financial statement with respect to revenues generated from interests, rights and licences, natural resources and local services, prepared and presented in compliance with accounting rules approved by the First Nations Financial Management Board or with International Financial Accounting Standards, as approved by Council from time to time.

Availability of Prior Year Reports

8.03 Annual Land Management Reports shall remain available to registered members on the First Nation's website, or in hardcopy

form on written request, for a period of not less than four years from the date of original publication.

PART 9 INTERESTS AND OTHER RIGHTS IN MISSISSAUGAS OF SCUGOG ISLAND FIRST NATION LAND

Prior interests and rights

9.01 Interests and other rights in Mississaugas of Scugog Island First Nation Land held by registered members pursuant to the *Indian Act* or pursuant to the custom of the Mississaugas of Scugog Island First Nation on the coming into force of the Mississaugas of Scugog Island First Nation Land Management Code on 08 September 1999 shall be subject to the provisions of this Land Code 2021 and land laws enacted under it or under previous versions of the Land Code 2021 and continuing in force, governing the transfer, assignment or leasing of interests or rights in First Nation Land and the generation of revenue from natural resources.

Indian Act provisions continued in force

9.02 In accordance with the *Framework Agreement*, sections 29 and 87 and subsections 89(1), 89(1.1) and 89(2) of the *Indian Act*, as amended from time to time, continue to apply to Mississaugas of Scugog Island First Nation Land.

Creation of interests and licences by Council

9.03 Subject to this Land Code 2021, Council may by resolution create and grant the following interests, rights in or licences relating to land:

- (a) a community purpose certificate reserving the use and occupation or creating an easement, right of way or licence in Community Land for community works;
- (b) a certificate of allocation granting to a registered member or registered members jointly or in common the right of exclusive use and occupation of a parcel of Mississaugas of Scugog Island First Nation Land, with any appurtenant easement or right of way, for residential purposes;
- (c) a lease granting to any person the right of exclusive use and occupation of a parcel of Community Land for a specified term;

- (d) a licence granting to any person a right to harvest, use or extract and appropriate natural resources found within First Nation Land;
- (e) a transfer of the interest, right or licence of a deceased registered member to the person who is entitled at law to the interest, right in or licence relating to that land;
- (f) a transfer of Community Land in exchange for other land in accordance with PART 15; and
- (g) an *izhitwaawin* site designation.

Conditional grant

- 9.04 An interest, right or licence granted by Council may be subject to the satisfaction of terms or conditions specified in the grant.

Certificates of possession or allocation

- 9.05 A registered member in possession of Mississaugas of Scugog Island First Nation Land pursuant to a certificate of possession or certificate of allocation may, on notice to Council:

- (a) devise, transfer or assign all of the interest evidenced by the certificate to any other registered member; or
- (b) grant to any person a lease or licence authorizing the use and occupation of the land or any part thereof in accordance with the terms of the original certificate of possession or allocation, and subject to this Land Code 2021 and any applicable land laws.

Transfer for cancellation

- 9.06 A certificate of possession or certificate of allocation may be transferred to the Mississaugas of Scugog Island First Nation for cancellation.

Leases and licences may be pledged

- 9.07 A leasehold interest, right in or licence relating to Mississaugas of Scugog Island land may be subject to charge, mortgage or pledge.

Revocation and cancellation

- 9.08 Council may by resolution revoke or cancel an interest, right or licence which has determined or expired or which has been acquired by the Mississaugas of Scugog Island First Nation by surrender, transfer or operation of law.

Enforceability

- 9.09 An interest, right in or licence relating to Mississaugas of Scugog Island First Nation Land, including a charge, mortgage or pledge of a lease or licence in accordance with section 9.07, and a transfer, disposition, release, surrender, cancellation or revocation thereof, shall be unenforceable unless evidenced by an instrument in writing registered or recorded in the First Nations Land Registry or such other registration system as Council may specify by land law adopted with community consultation as provided in section 5.07.

Forms

- 9.10 Council may by resolution prescribe forms for the creation, granting, transfer, assignment or other disposition of interests, rights in or licences relating to Mississaugas of Scugog Island First Nation Land.

PART 10 DISPOSITION OF LAND ON THE DEATH OF A REGISTERED MEMBER

Indian Act provisions which continue to apply

- 10.01 Subject to the laws of Mississaugas of Scugog Island First Nation in respect of family homes and matrimonial interests, and until Mississaugas of Scugog Island First Nation exercises jurisdiction in relation to wills and estates, the provisions of the *Indian Act* relating to the disposition of the interests, rights in or licences relating to Mississaugas of Scugog Island First Nation land on the death of a registered member shall continue to apply.

Right of registration

- 10.02 Subject to section 9.03, the estate trustee or personal representative of the deceased registered member, or a registered member who is entitled at law to the interest, right in or licence relating to Mississaugas of Scugog Island First Nation Land of the deceased registered member, shall be entitled to the issuance by Council of an instrument evidencing that interest, right or licence and to have that instrument registered in the First Nations Land Registry upon production of:
- (a) the direction in writing of the estate trustee or personal representative of the deceased appointed by a court of law;
 - (b) an order of the Minister pursuant to the *Indian Act*; or

- (c) an order of a court of competent jurisdiction which is of full force and effect on the date of registration.

PART 11 RIGHTS OF RESIDENCY AND ACCESS

Right of residence

11.01 The following persons may reside on Mississaugas of Scugog Island First Nation Land:

- (a) a registered member and, residing with the registered member, a spouse, child or grandchild of the registered member and any person who is in the care and custody of the registered member pursuant to the custom of the Mississaugas of Scugog Island First Nation or by order of a court of competent jurisdiction;
- (b) a tenant pursuant to a lease which expressly includes a right of residence;
- (c) a person authorized to reside on Mississaugas of Scugog Island First Nation Land by a land law or any other law of the Mississaugas of Scugog Island First Nation or by applicable laws in respect of family homes and matrimonial interests; and
- (d) an invitee of a person described in subsections (a), (b) or (c), other than an invitee or a person described in subsections (a), (b) or (c) barred from entering or residing on Mississaugas of Scugog Island First Nation Land by a resolution of Council or by banishment.

Right of Access

11.02 The following persons have a right of access to Mississaugas of Scugog Island First Nation Land:

- (a) a person entitled to reside on Mississaugas of Scugog Island First Nation Land pursuant to section 11.01;
- (b) a person entitled to access Mississaugas of Scugog Island First Nation Land pursuant to a lease or licence;
- (c) a person authorized by a resolution of Council, a land law or other law of the First Nation to access Mississaugas of Scugog Island First Nation Land; and

- (d) an invitee of a person described in subsections (a), (b) or (c), other than an invitee or a person described in subsections (a), (b) or (c) barred from entering or residing on Mississaugas of Scugog Island First Nation Land by a resolution of Council or by banishment.

Use of public access lands

- 11.03 Any person may use public access lands including public roads in accordance with applicable laws.

Banishment and exclusion orders

- 11.04 Notwithstanding sections 11.01, 11.02 or 11.03, a person barred from entering or residing on Mississaugas of Scugog Island First Nation Land by a resolution of Council excluding that person or by an order of banishment may not reside on, enter on, use or remain on Mississaugas of Scugog Island First Nation Land except by express prior written permission granted by resolution of Council.

Trespass

- 11.05 Any person, who resides on, enters on, uses or remains on Mississaugas of Scugog Island First Nation Land, except in accordance with a right of residence described in section 11.01, or a right of access or use described in sections 11.02 or 11.03, is guilty of an offence.

Civil remedies

- 11.06 All civil remedies for trespass are preserved.

PART 12 DISPUTE RESOLUTION

Voluntary dispute resolution

- 12.01 A person who wishes to seek the resolution of a dispute with the Mississaugas of Scugog Island First Nation or another person in relation to the management, possession, use or occupation of or provision of services to Mississaugas of Scugog Island First Nation Land may submit to Council a written request for dispute resolution pursuant to this Part.

Dispute resolution processes

- 12.02 Dispute resolution under this Part may take the form of
- (a) a healing circle, which shall seek, through the sharing of perspectives and experiences, a consensus which restores harmony among the parties and between the

parties and the community, and which shall be comprised of the parties to the dispute, other registered members acceptable to the parties and at least one elder selected by Council who has attained a high degree of understanding of Mississaugii history, traditional teachings, ceremonies, and healing practices;

- (b) discussions between the parties facilitated by a mediator, appointed by Council, who shall seek to assist the parties in reaching agreement without taking a position on the issues in dispute; or
- (c) binding arbitration by an arbitrator appointed by Council.

Disputes to which this Part not applicable

12.03 Notwithstanding section 12.01, the following matters may not be submitted for dispute resolution pursuant to this Part:

- (a) the administration or distribution of an estate;
- (b) a housing allocation;
- (c) a decision of Council to grant or refuse to grant or transfer an interest, right in or licence relating to Mississaugas of Scugog Island First Nation Land;
- (d) a decision relating to an expropriation under this Land Code 2021;
- (e) except with the prior consent of Council, any matter in respect of which an enforcement proceeding has been commenced under this Land Code 2021 or under any land law or other regulatory instrument, and any judgment, penalty or other order, outcome or appeal of any such proceeding; and
- (f) any matter governed by a written agreement or law which prescribes another form of dispute resolution.

Agreement of parties required

12.04 Council, prior to accepting a dispute for resolution under this Part, shall require the written agreement of all the parties whom Council deems to be necessary to the resolution of the dispute with respect to the following:



- (a) a statement of the disputed matter or nature of the dispute;
- (b) the necessary parties to the dispute;
- (c) the dispute resolution process selected by the parties;
- (d) the appointment by Council of a healing circle, mediator or arbitrator; and
- (e) each party's commitment to participate in the dispute resolution process and to be bound by the rules and outcomes of the process including any orders as to costs.

Acceptance of dispute

12.05 Where Council accepts a dispute for resolution under this Part, it may by resolution appoint or provide for the appointment of one or more persons to act as elder, mediator or arbitrator for the dispute, and in respect of any such resolution the members of Council shall be deemed not to be in a conflict of interest.

Powers of mediator or arbitrator

12.06 Subject to section 12.07, an elder, mediator or arbitrator shall have all the powers and authority reasonably necessary to implement the terms of the dispute resolution agreement and to decide any substantive or procedural matter arising in the course of the dispute resolution process.

Dispute resolution rules

12.07 Council may by land law, regulation, code or policy prescribe rules to govern the conduct of the dispute resolution process which shall be binding on the parties and the mediator or arbitrator.

Termination by mutual agreement or decision

12.08 A dispute resolution process may be terminated:

- (a) by Council where it determines that the parties are not in compliance with section 12.04;
- (b) by an agreement of the parties in writing; or
- (c) by the issuance to Council and the parties of a decision in writing of the elder, mediator or arbitrator deciding the dispute in whole or in part, or determining that

continuance of the process is not likely to advance the resolution of the dispute.

Order for costs

- 12.09 Upon termination of facilitated discussions or an arbitration, the elder, mediator or arbitrator, or, in default thereof, Council, may order that any party pay:
- (a) all or part of the costs thereof to the Mississaugas of Scugog Island First Nation; and
 - (b) all or part of the costs of any other party to that other party;
 - (c) which order shall be immediately due and payable and enforceable as a debt of the party against whom the costs are ordered.

Dispute resolution orders binding

- 12.10 An order of an elder, mediator or arbitrator pursuant to this Part shall be binding upon the parties.

Other dispute resolution methods

- 12.11 Nothing in this Part shall be construed to prevail over the dispute resolution provisions prescribed by a written agreement or law, or the right of any person to pursue resolution of a dispute without recourse to this Part.

PART 13 CONFLICTS OF INTEREST

Conflicts of interest

- 13.01 An office holder is in a conflict of interest when they exercise an official power, duty or function that provides an opportunity for that official to materially further their private interests or those of their immediate family or business associates, other than an interest held in common with all other registered members, or to improperly further another person's private interests.

Avoidance of conflicts of interest

- 13.02 An office holder shall not make a decision or participate in making a decision, or exercise a power, duty or function under this Land Code 2021 or any land law if, in the making of the decision, they would be in a conflict of interest.

Recusal

- 13.03 An office holder shall recuse themselves from any discussion, decision, debate or vote on any matter in respect of which they would be in a conflict of interest, and take appropriate steps to ensure the recusal is recorded in an official record with sufficient detail to identify the conflict of interest that was avoided.

Inability to act - Council

- 13.04 Where the Council cannot achieve or maintain quorum in respect of a matter by reason of recusals, the Council may by resolution direct that the matter shall be decided by a majority vote of the eligible voters conducted in accordance with sections 5.09 to 5.14 inclusive and, for the purposes of such resolution, none of the members of Council shall be deemed to have a conflict of interest.

Inability to act – board, committee or other body or person

- 13.05 If a board, committee or other body or person authorized by this Land Code 2021 or a land law to exercise a power or to perform any duty or function in relation to First Nation Land or interests or licences therein is unable to act in respect of a matter due to a conflict of interest, the board, committee or other body or person may, notwithstanding the conflict of interest, refer the matter to Council.

Transactions not void

- 13.06 A transaction, resolution, act or decision shall not be void or a nullity by reason only of an office holder's failure to comply with this Part.

Office holders – duties and responsibilities

- 13.07 Council may enact laws regarding the probity, duties and responsibilities of office holders, and creating offences and prescribing penalties relating to abuses of office including improper influence, the acceptance of gifts and the use of insider information.

PART 14 EXPROPRIATION FOR COMMUNITY PURPOSES

Expropriation where essential for community works

- 14.01 Subject to section 14.06, where Council determines by resolution that
- (a) the acquisition of all or part of an interest, right in or licence relating to Mississaugas of Scugog Island First

Nation Land, or any improvement, use or structure thereon, is essential for community works; and

- (b) the Mississaugas of Scugog Island First Nation has made a good faith effort to acquire the interest, right or licence or part thereof from the owner or occupant by mutual agreement but no agreement has been reached and, in the opinion of Council, it is unlikely that a mutual agreement can be reached;

the Council may, after serving the owner of the interest, right or licence with a notice of expropriation in accordance with the procedural rules to be enacted under section 14.05 of this Land Code 2021, enact a land law, with community consultation and in accordance with the *Framework Agreement* and this Part, expropriating the interest, right or licence or part thereof.

Compensation

- 14.02 The First Nation shall be liable to pay fair compensation to the person legally entitled to an interest on expropriation, based on the heads of compensation set out in the *Expropriation Act*, including, where part of an interest, right or licence is expropriated, compensation for the value of the expropriated portion of the interest, right or licence and for the severance damage to the remaining portion of the interest, right or licence.

Effective date of expropriation

- 14.03 No expropriation of an interest, right or licence pursuant to this Part shall take effect before the later of the following:
- (a) the date the notice of expropriation is registered in the First Nation Lands Register; or
 - (b) the 30th day after the day the notice of expropriation is served in the manner required by the rules to be enacted under section 14.05.

Effect of expropriation

- 14.04 An expropriated interest, right or licence becomes Community Land or property of the First Nation, free of any prior claims or encumbrances.

Procedural land law

- 14.05 Prior to initiating any expropriations under this Part, Council shall enact a procedural land law, with community consultation and

in accordance with the *Framework Agreement*, to govern the expropriation process including:

- (a) notice of expropriation and the service and registration of the notice of expropriation;
- (b) a mechanism to resolve disputes over the amount of compensation payable by the First Nation;
- (c) the method of payment of compensation including the reasonable costs of a party;
- (d) procedures governing the taking of possession of expropriated interests and licences;
- (e) the registration of expropriation instruments; and
- (f) the inclusion of a summary of any expropriation in the Annual Land Management Report to registered members.

Interests and licences that may not be expropriated

14.06 The following interests, rights in and licences relating to First Nation Land are not subject to expropriation:

- (a) in accordance with clause 17.6 of the *Framework Agreement*, an interest, right or licence that was obtained pursuant to section 35 of the *Indian Act* or any interest or land right that has been acquired by Canada or Ontario;
- (b) an interest, right or licence granted by Council after the date of coming into force of this Land Code 2021 which expressly provides, in the granting instrument, that the interest, right or licence shall be exempt from expropriation; and
- (c) an *izhitwaawin* site.

PART 15 EXCHANGE OF LAND

Protection of reserve land

15.01 Mississaugas of Scugog Island First Nation Land may not be sold, conveyed or otherwise alienated, except in an exchange of land

made in accordance with this Part and the *Framework Agreement*.

Restrictions on exchange of land

- 15.02 The Mississaugas of Scugog Island First Nation may exchange First Nation Land for other land only if
- (a) compensation for the First Nation Land includes land that Her Majesty has agreed will be set apart as a reserve or added to an existing reserve;
 - (b) the Minister has approved the form of the exchange; and
 - (c) the exchange of First Nation Land is approved by a community approval in accordance with PART 5.

Terms and conditions

- 15.03 An exchange of First Nation Land may be made subject to terms and conditions.

Other compensation

- 15.04 In addition to the land referred to in subsection 15.02(a), the First Nation may receive other compensation, including land that will not become First Nation Land.

Deemed amendment of the Land Code 2021 – reserve land

- 15.05 As of the date of the setting aside of the land referred to in subsection 15.02(a) as a reserve or its addition to an existing reserve, the land shall be deemed to be Mississaugas of Scugog Island First Nation Land subject to this Land Code 2021.

PART 16 ENFORCEMENT

Offences and prosecutions

- 16.01 A land law enacted with community consultation or community approval may:
- (a) create offences punishable on summary conviction and provide for the imposition of fines, imprisonment, restitution, community service, forfeiture of property, restraining orders and orders of banishment, and any other means for achieving compliance including minimum penalties;

- (b) create procedures for the investigation, charging and prosecution of offences, including adopting or incorporating by reference the summary conviction procedures of Part XXVII of the *Criminal Code*, as amended from time to time.

Appointment of Justices of the Peace and other enforcement officials

- 16.02 The First Nation may appoint prosecutors, enforcement officers and, by itself or in co-operation with Canada, Justices of the Peace for the purpose of enforcing this Land Code 2021 and any land law or regulation enacted under it.

Fees and penalties payable to MSIFN

- 16.03 All confiscated property and all fees, fines and penalties required to be paid on conviction for an offence established by a land law shall be paid and transferred to the Mississaugas of Scugog Island First Nation.

Deduction of outstanding amounts

- 16.04 Any fees, fines or penalties which remain unpaid in excess of thirty (30) days may be deducted from any other funds in the control of the Mississaugas of Scugog Island First Nation and payable to the person liable for such fees, fines or penalties.

PART 17 GENERAL

Immunity of office holders, etc.

- 17.01 No criminal or civil proceedings shall lie against any office holder for anything done or omitted to be done in good faith during the course of the exercise or purported exercise of any power or the performance or purported performance of any duty or function pursuant to this Land Code 2021 or any land law.

Amendment of Land Code 2021

- 17.02 This Land Code 2021 may be amended by a community approval vote conducted in accordance with PART 5.

Amendment of land laws and other instruments

- 17.03 A land law or other instrument created, enacted, adopted or passed by Council pursuant to its law-making authority under this Land Code 2021 may be amended, repealed or revoked:
- (a) In the manner provided in the land law or other instrument; or



- (b) in the manner in which it was originally created, enacted or adopted.

Minor revisions

17.04 Notwithstanding sections 17.02 and 17.03, this Land Code 2021 and any land law or other instrument created, enacted, adopted or passed by Council may be revised by a resolution of Council, adopted in an open session of Council on not less than 21 days' notice to eligible voters in accordance with section 5.14, where Council deems the revision to be minor in that it will not change the purpose, intent or substance of the Code, land law or instrument, but will correct an error or defect in wording or assist in the interpretation or implementation of the Land Code 2021, land law or other instrument.

In force date

17.05 This Land Code 2021 shall come in force on the earlier of:

- (a) the date which is six months after the date of certification of this Land Code 2021; or
- (b) the date on which Council by resolution declares all or any part of this Land Code 2021 in force by resolution published in accordance with section 6.02.

[END]