

**McLEOD LAKE INDIAN BAND  
LAND CODE**

(Dated for Reference November 1, 2002)

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**Certified**  
*February 27, 2003*  
Date  
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TABLE OF CONTENTS

PREAMBLE .....4

PART 1: PRELIMINARY MATTERS .....5

1. Title.....5

2. Interpretation.....5

3. Authority to Govern.....7

4. Purpose .....8

5. Description of Band Land.....8

PART 2: BAND LEGISLATION.....11

6. Law-Making Powers .....11

7. Law-Making Procedure .....13

8. Publication of Laws .....14

PART 3: COMMUNITY APPROVALS.....15

9. Rights of Eligible Voters .....15

10. Community Input.....15

11. Community Approval at a Meeting of Members.....16

12. Procedure at a Meeting of Member .....16

13. Ratification Votes .....17

PART 4: PROTECTION OF LAND .....18

14. Expropriation .....18

15. Heritage Sites.....20

16. Voluntary Land Exchange and Protection.....21

PART 5: ACCOUNTABILITY .....22

17. Conflict of Interest .....22

PART 6: LAND ADMINISTRATION .....24

18. Financial Management.....24

19. Financial Records.....25

20. Borrowing and Investment.....27

21. Audit .....28

22. Annual Report.....29

23. Access to Financial Information .....29

24. Land Management Committee.....29

25. Membership of the Land Management Committee .....30

26. Chair of the Land Management Committee.....32

27. Revenue From Lands .....33

28. Registration of Interest and Licenses .....34

PART 7: FOREST RESOURCES .....34  
29. Forest Practices .....34

PART 8: INTERESTS AND LICENSES IN LAND .....35  
30. Limits on Interests and Licenses.....35  
31. Existing Interests.....35  
32. New Interests and Licenses.....36  
33. Possession of Land by Members.....36  
34. Allocation of Land .....36  
35. Transfers and Assignment of Interest .....37  
36. Limits on Mortgages and Seizures.....37  
37. Residency and Access Rights .....38  
38. Transfers on Death or Mental Incompetence.....39  
39. Spousal Property Law .....40

PART 9: DISPUTE RESOLUTION.....41  
40. Dispute Resolution Panel .....41  
42. Dispute Procedure.....42  
42. Impartially.....43  
43. Powers of Panel.....43

PART 10: OTHER MATTERS .....44  
44. Liability.....44  
45. Offences .....44  
46. Amendments to the Land Code.....45  
47. Commencement .....45

## PREAMBLE

**WHEREAS** the Tsek'ehne of the McLeod Lake Indian Band have a special relationship with the land within their traditional territory based on respect for the spiritual value of the Earth and the creatures and plants placed thereon by the Creator;

**AND WHEREAS** the Tsek'ehne of the McLeod Lake Indian Band are determined to preserve this unique relationship and to care for and protect the land within their traditional territory;

**AND WHEREAS** the McLeod Lake Indian Band has, by resolution MLIB.041001.06 dated April 10, 2001 formalized these values in the following McLeod Lake Indian Band Vision Statement:

"We, the Tse'Khene Nation (People of the Rock) are a proud people. We believe the Creator put us here as stewards of the land. We will regain our Traditions to cultivate a respected, united, self-sufficient community. We recognize all people as equal regardless of name and ancestry. Our governing body is elected based upon integrity, honor, accountability and transparency to all members. Together we will provide healthy, educated self-sufficient and prosperous lifestyles for our future generations."

**AND WHEREAS** on March 27, 2002 the McLeod Lake Indian Band and its members entered into a McLeod Lake Indian Band Treaty No. 8 Adhesion and Settlement Agreement with Her Majesty the Queen in Right of Canada and British Columbia;

**AND WHEREAS** the McLeod Lake Indian Band wishes to manage its lands and resources, thereby enabling the Band to become economically self sufficient, with the means to live in dignity and assume responsibility for its economic, political, cultural and social development within the context of the Canadian society, rather than having its lands and resources managed on its behalf by Canada in accordance with the *Indian Act*;

**AND WHEREAS** the McLeod Lake Indian Band wishes to manage its lands and resources by entering into the *Framework Agreement on First Nation Land Management* concluded between Her Majesty in right of Canada and fourteen first nations on February 12, 1996, as amended;

**NOW THEREFORE THIS LAND CODE IS HEREBY ENACTED AS THE FUNDAMENTAL LAND LAW OF THE TSEK'EHNE OF THE McLEOD LAKE INDIAN BAND.**

**PART 1  
PRELIMINARY MATTERS**

**1. Title**

1.1 The title of this enactment is the *McLeod Lake Indian Band Land Code*.

**2. Interpretation**

Definitions

2.1 The following definitions apply in this Land Code:

“Band” means the McLeod Lake Indian Band;

“Band Land” means any portion of a Band reserve that is subject to this Land Code;

“Common-law Marriage” means a man and woman not married to each other, who have lived together as husband and wife for a period of not less than one year;

“Community Land” means any Band Land in which all Members have a common interest;

“Council” means the Chief and Councilors of the McLeod Lake Indian Band;

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

“First Nation Lands Register” means the register maintained by the Department of Indian Affairs and Northern Development under clause 51.1 of the Framework Agreement;

“Forest Practices” means timber harvesting and related activities, road construction, road modification, road maintenance, road deactivation, silviculture treatments, botanical forest products collecting, grazing, fire use, control and suppression and any other forest activity that is carried out on Band Land;

“Framework Agreement” means the *Framework Agreement on First Nation Land Management* concluded between Her Majesty in right of Canada and fourteen first nations on February 12, 1996, as amended;

“Immediate Relatives”, in respect of an individual, means the individual’s parent, sister, brother, child or Spouse;

“Land Code” means this *McLeod Lake Indian Band Land Code*;

“Land Management Committee” means the Land Management Committee established under this Land Code;

“Law” means a Law enacted pursuant to this Land Code;

“Meeting of Members” means a meeting of Members held under Part 3 of this Land Code;

“Member” means an individual whose name appears or is entitled to appear on the McLeod Lake Indian Band Membership List;

“Panel” means the Dispute Resolution Panel established under clause 40.1 of this Land Code;

“Ratification Vote” means a vote under clause 13 of this Land Code;

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

“Spouse” means an individual who is married to another, whether by a traditional, religious or civil ceremony, and includes a spouse by Common-law Marriage;

“Transfer Agreement” means the Individual First Nation Agreement made between the McLeod Lake Indian Band and Her Majesty in right of Canada in accordance with clause 6.1 of the Framework Agreement; and

“Trust Agreement” means the McLeod Lake Indian Band Trust Agreement appended as Attachment “C” to the McLeod Lake Indian Band Treaty No. 8 Adhesion and Settlement Agreement.

2.2 In this Land Code, unless the context otherwise requires:

- (a) “Band” and “McLeod Lake Indian Band” have the same meaning as “First Nation” in the Framework Agreement;
- (b) “Band” and “McLeod Lake Indian Band” have the same meaning as “McLeod Lake” in the McLeod Lake Indian Band Treaty No. 8 Adhesion and Settlement Agreement; and
- (c) “Band Land” has the same meaning as “First Nation Land” in the Framework Agreement.

Paramourncy

2.3 If there is an inconsistency or conflict between this Land Code and any other enactment of the Band, this Land Code prevails to the extent of the inconsistency or conflict.

2.4 If there is an inconsistency or conflict between this Land Code and the McLeod Lake Indian Band Treaty No. 8 Adhesion and Settlement Agreement, the Treaty No. 8 Adhesion and Settlement Agreement prevails to the extent of the inconsistency or conflict.

2.5 If there is an inconsistency or conflict between this Land Code and the Trust Agreement, the Trust Agreement prevails to the extent of the inconsistency or conflict.

Non-abrogation

2.6 This Land Code is not intended to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain now or in the future to the Band or its Members.

Fair Interpretation

2.7 This Land Code will be interpreted in a fair, large and liberal manner.

Fiduciary Relationship

2.8 This Land Code is not intended to abrogate the fiduciary relationships between Her Majesty the Queen in Right of Canada, the Band and its Members.

Lands and Interests Affected

2.9 A reference to "land" or "Land" in this Land Code includes all rights and resources in and of the land, and includes:

- (a) all renewable and non-renewable natural resources in and of that land, to the extent that these are under the jurisdiction of Canada or the Band, and without limiting the generality of the foregoing includes timber, mineral resources and water; and
- (b) any interest or license granted to the Band by Her Majesty in right of Canada as listed in the Transfer Agreement.

**3. Authority to Govern**

Source of Authority

3.1 The authority of the Band to govern its land and resources flows from its inherent right of self-government and its rights under the McLeod Lake Indian Band Treaty No.8 Adhesion and Settlement Agreement.

#### 4. Purpose

##### Purpose

- 4.1 The purpose of this Land Code is to set out the principles and administrative structures that apply to Band Land and by which the Band will exercise authority over those lands.

##### Ratification

- 4.2 The Framework Agreement is ratified and confirmed by the Band when this Land Code comes into effect.

#### 5. Description of Band Land

##### Band Land

- 5.1 The Band Land that is subject to this Land Code is:

- (a) McLeod Lake Indian Reserve No. 1, Cariboo District, British Columbia, C.L.S.R. Plan B.C. 101, a copy of which is deposited in the Land Registry Office at Prince George as 20072;
- (b) Pack River Indian Reserve No. 2, B.C. being District Lot 10118, Cariboo District, British Columbia, C.L.S.R. Plan B.C. 492, a copy of which is deposited in the Land Registry Office at Prince George as 20071;
- (c) Carp Lake Indian Reserve No. 3, being District Lots 10121 and 10122, Cariboo District, British Columbia, C.L.S.R. Plan B.C. 493, a copy of which is filed in the Land Registry Office at Prince George as 20187;
- (d) War Lake Indian Reserve No. 4, being District Lot 10120, Cariboo District, British Columbia, C.L.S.R. Plan B.C. 494, a copy of which is deposited in the Land Registry Office at Prince George as 20198; and
- (e) McLeod Lake Indian Reserve No. 5, being District Lot 10117, Cariboo District, British Columbia, C.L.S.R. Plan B.C. 495, F.B. 659, a copy of which is filed in the Land Registry Office at Prince George as 20537.

##### Additional Lands

- 5.2 The following lands will be made subject to this Land Code upon Canada carrying out its obligations under the McLeod Lake Indian Band Treaty No. 8 Adhesion and Settlement Agreement and an environmental audit declares the lands free of environmental hazard and safe for community use:

- (a) District Lot 13044, as shown on official plan 1TU1869 deposited in the Crown Land Registry in Victoria. A copy of the said plan is recorded in the Canada Lands Surveys Records in Ottawa as plan number 85641. Containing an area of 705 hectares, more or less;
- (b) District Lot 13036 and Block I of District Lots 5713 and 9608, as shown on official plans 1TU1872 to 14TU1872 inclusive, deposited in the Crown Land Registry in Victoria. A copy of the said plans is recorded in the Canada Lands Surveys Records in Ottawa as plan number 85706, Sheets 1 to 14 inclusive. Containing an area of 8054.3 hectares, more or less;
- (c) District Lot 13031, as shown on official plan 2TU1894 deposited in the Crown Land Registry in Victoria. A copy of the said plan is recorded in the Canada Lands Surveys Records in Ottawa as plan number 85704. Containing an area of 1.45 hectares, more or less;
- (d) District Lot 13046, as shown on official plan 2TU1869 deposited in the Crown Land Registry in Victoria. A copy of the said plan is recorded in the Canada Lands Surveys Records in Ottawa as plan number 85643. Containing an area of 898 hectares, more or less;
- (e) District Lot 13045, as shown on official plans 1TU1891 to 7TU1891 inclusive, deposited in the Crown Land Registry in Victoria. A copy of the said plans is recorded in the Canada Lands Surveys Records in Ottawa as plan number 85730, Sheets 1 to 7 inclusive. Containing an area of 3323 hectares, more or less;
- (f) District Lot 13037, as shown on official plan 9TU1868 deposited in the Crown Land Registry in Victoria. A copy of the said plan is recorded in the Canada Lands Surveys Records in Ottawa as plan number 85642. Containing an area of 2674 hectares, more or less;
- (g) District Lot 13027, as shown on official plan 3TU1889 deposited in the Crown Land Registry in Victoria. A copy of the said plan is recorded in the Canada Lands Surveys Records in Ottawa as plan number 85646. Containing an area of 1.98 hectares, more or less;
- (h) Block C of District Lots 2978 and 2980, as shown on official plan 9TU1871 deposited in the Crown Land Registry in Victoria. A copy of the said plan is recorded in the Canada Lands Surveys Records in Ottawa as plan number 85644. Containing an area of 1.02 hectares, more or less;
- (i) District Lot 13028, as shown on official plan 8TU1871 deposited in the Crown Land Registry in Victoria. A copy of the said plan is recorded in the Canada Lands Surveys Records in Ottawa as plan number 85645. Containing an area of 2.09 hectares more or less;

- (j) District Lot 13029, as shown on official plan 3TU1894 deposited in the Crown Land Registry in Victoria. A copy of the said plan is recorded in the Canada Lands Surveys Records in Ottawa as plan number 85651. Containing an area of 2.02 hectares, more or less;
  - (k) District Lot 13030, as shown on official plan 40TU1889 deposited in the Crown Land Registry in Victoria. A copy of the said plan is recorded in the Canada Lands Surveys Records in Ottawa as plan number 85652. Containing an area of 1.05 hectares, more or less;
  - (l) District Lot 13031, as shown on official plan 10TU1871 deposited in the Crown Land Registry in Victoria. A copy of the said plan is recorded in the Canada Lands Surveys Records in Ottawa as plan number 85705. Containing an area of 4.00 hectares, more or less;
  - (m) District Lot 13032, as shown on official plan 1TU1870 deposited in the Crown Land Registry in Victoria. A copy of the said plan is recorded in the Canada Lands Surveys Records in Ottawa as plan number 85653. Containing an area of 12.0 hectares, more or less; and
  - (n) District Lot 13033, as shown on official plan 11TU1871 deposited in the Crown Land Registry in Victoria. A copy of the said plan is recorded in the Canada Lands Surveys Records in Ottawa as plan number 85654. Containing an area of 4.00 hectares, more or less.
- 5.3 The following lands will be made subject to this Land Code upon Canada and British Columbia carrying out their respective obligations under the McLeod Lake Indian Band Treaty No. 8 Adhesion and Settlement Agreement and an environmental audit declares the lands free of environmental hazard and safe for community use:
- (a) 26.0 hectares at the community of Bear Lake; and
  - (b) 8.1 hectares in the District Municipality of MacKenzie.
- 5.4 Further lands may be made subject to this Land Code if they are, or become, reserve lands and the following conditions are met as applicable:
- (a) any lands owned jointly by the First Nation and another First Nation, when both First Nations agree upon a joint management scheme for those lands;
  - (b) any land or interest acquired by the First Nation after this Land Code comes into effect, whether by land claim, purchase or other process, when an environmental audit declares it free of environmental hazard and safe for community use; and
  - (c) any land in severalty selected under Article 8 of the McLeod Lake Indian Band Treaty No. 8 Adhesion and Settlement Agreement.

- 5.5 For greater certainty, clause 5.4 does not apply to land acquired by voluntary land exchange in accordance with clause 16 of this Land Code.
- 5.6 If the relevant conditions in clause 5.4 are met, Council will call a Meeting of Members and, after receiving input at that meeting, may by enacting a Law declare the land or interest to be subject to this Land Code.

## PART 2 BAND LEGISLATION

### 6. Law-Making Powers

#### Council May Make Laws

6.1 Council may, in accordance with this Land Code, make Laws respecting:

- (a) the development, conservation, protection, management, use and possession of Band Land;
- (b) interests and licenses in relation to Band Land; and
- (c) any matter necessary or ancillary to a Law respecting Band Land.

#### Examples of Laws

- 6.2 For greater certainty, Council may make Laws in relation to Band Land including, but not limited to:
- (a) the regulation, authorization, control and prohibition of zoning, occupation, land use planning and development;
  - (b) the creation, granting and regulation of interests and licenses including leases, permits, easements, rights-of way or any other interest Council considers desirable or that is otherwise provided in this Land Code;
  - (c) environmental assessment and protection;
  - (d) the regulation and authorization of surveys and subdivisions;
  - (e) the setting aside and regulation of parks, parklands, and recreational lands for use by Members or others;
  - (f) the setting aside and regulation of heritage sites;

- (g) the creation, regulation and control of construction and building standards, occupancy and building maintenance standards, design criteria, infrastructure installation and servicing, repair, alteration, demolition and use of buildings;
- (h) the regulation, control and management of all renewable and non-renewable natural resources in and of Band Land to the extent that such resources are under the jurisdiction of Canada or the Band, including but not limited to Forest Practices and mining and extraction of minerals, mineral resources and soils in accordance with the McLeod Lake Indian Band Treaty No. 8 Adhesion and Settlement Agreement;
- (i) subject to the Trust Agreement, general rules and procedures for the receipt, management and expenditure of Band moneys including revenues, royalties, profits and fees in respect of Band Land, the investment and borrowing of moneys, and the establishment of administrative structures to manage such moneys;
- (j) the establishment and regulation of administrative bodies or agencies for the management and administration of Band Land;
- (k) the regulation, control and management for the protection and preservation of fur-bearing animals, fish, game and other wildlife;
- (l) the regulation, control and management for the destruction of noxious weeds and prevention of the spreading or prevalence of insects, pests or diseases that may destroy or injure vegetation;
- (m) the removal and punishment of persons trespassing upon Band Land or frequenting Band Land for prohibited purposes;
- (n) the regulation of sanitary conditions and providing sanitary services in private premises and public places;
- (o) the construction and maintenance of boundary and internal fences;
- (p) the construction, maintenance and management of roads, water courses, water diversions, storm drains, bridges, ditches and other local and public works;
- (q) the regulation of traffic and transportation;
- (r) provision of local services and the imposition of equitable user charges; and
- (s) the regulation, control or prohibition of any land-based actions, activities, or undertakings that constitute a nuisance, a trespass, a danger to public health, or a threat to public order, peace or safety.

Administration

- 6.3 Council will perform all the duties and functions, and exercise all the powers, of the McLeod Lake Indian Band that are not specifically assigned to an individual or body established pursuant this Land Code.
- 6.4 Council may by enacting a Law, delegate administrative authority in relation a Law enacted under clause 6.1 to an individual or a body established pursuant to this Land Code.

Forest Practices

- 6.5 Forest Practices on Band Land will be regulated in accordance with Part 7 of this Land Code.

**7. Law-Making Procedure**

Introduction of Laws

- 7.1 A proposed Law may be introduced at a duly convened meeting of Council by:
- (a) the Chief;
  - (b) a Councilor; or
  - (c) a member of the Land Management Committee.

Tabling and Posting of Proposed Laws

- 7.2 Before a proposed Law may be enacted by Council, the proposed Law will be:
- (a) tabled at a meeting of Council at least 28 days before the proposed Law is to be enacted;
  - (b) deposited with the Chair of the Land Management Committee at least 21 days before the proposed Law is to be enacted;
  - (c) posted in the Band administration offices and other public places on Band Land at least 21 days before the proposed Law is to be enacted; and
  - (d) mailed to all Members aged 18 years or older at their last known address at least 21 days before the proposed Law is to be enacted.

Urgent Matters

7.3 Council may enact a Law without the preliminary steps required under clause 7.2 if Council is reasonably of the opinion that the Law is needed urgently to protect Band Land or Members.

7.4 A Law enacted under clause 7.3 expires 28 days after its enactment unless it is reenacted in accordance with clause 7.2.

Approval of Law by Council

7.5 A Law is enacted if it is approved by a majority of Council at a duly convened meeting of Council open to the Members.

7.6 The original copy of any Law or Resolution concerning Band Land will be signed by a quorum of Council present at the meeting at which it is enacted.

Law Coming Into Force

7.7 A Law comes into force on:

- (a) the date it is enacted by Council; or
- (b) a date set by the Law.

**8. Publication of Laws**

Publication

8.1 All Laws will be published in the minutes of Council.

Posting Laws

8.2 Within seven days after a Law has been enacted, Council will post a copy of the Law in the Band administration offices.

Registry of Laws

8.3 Council will cause to be kept at the main Band administration office a register of Laws containing the original copy of all Laws and Resolutions, including Laws and Resolutions that have been repealed or are no longer in force.

8.4 Any person may, during normal business hours at the Band administration office, have reasonable access to the register of Laws.

Copies for Any Person

- 8.4 Any person may obtain a copy of a Law or Resolution upon payment of such reasonable fee as may be set by Council or a body designated by Council.

**PART 3  
COMMUNITY APPROVALS**

**9. Rights of Eligible Voters**

Rights of Eligible Voters

- 9.1 Every Eligible Voter is eligible to vote at a Meeting of Members and in a Ratification Vote.

**10. Community Input**

Prior Meeting of Members

- 10.1 Council will call a Meeting of Members to receive input from Members prior to enacting a Law in respect of the following:
- (a) a land use plan;
  - (b) a heritage site or an environmentally sensitive property;
  - (c) environmental assessment;
  - (d) the transfer or assignment of interests in Band Land;
  - (e) spousal property under clause 39;
  - (f) the rate and criteria for the payment of fees, user fees or rents for the use and occupation of Band Land; and
  - (g) any other matter or class of matters that Council, by Resolution, declares to be subject to this clause.

Process to Implement Laws

- 10.2 Subject to clause 39, Council will, in consultation with the Land Management Committee and within a reasonable time after this Land Code takes effect, establish a community process to develop and implement the Laws referred to in clause 10.1.

**11. Community Approval at a Meeting of Members**

Community Approval by Meeting

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

- (a) subject to clause 15, a land use plan or amendment of a land use plan;
- (b) a grant or disposition of an interest or license in Band Land for a term longer than 15 years;
- (c) renewal of a grant or disposition of an interest or license in Band Land for a term longer than 15 years, or that would have the effect of extending the grant or disposition being renewed for a term longer than 15 years;
- (d) a grant or disposition of natural resources on Band Land;
- (e) a charge or mortgage of a leasehold interest;
- (f) a Law respecting the rights and procedures for expropriation;
- (g) amendment of this Land Code;
- (h) rules and procedures, applicable on the breakdown of a marriage to the use, occupancy and possession of Band Land and the division of interests therein; and
- (i) any Law or class of Law that Council, by Resolution, declares to be subject to this clause.

**12. Procedure at a Meeting of Members**

Voting

12.1 Decisions at a Meeting of Members will be made by a two-thirds majority vote of the Eligible Voters present at the meeting.

Notice of Meeting

12.2 Council will give written notice of a 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 at the meeting.

Manner of Notice

12.3 Written notice of a Meeting of Members will be given to the Members by:

- (a) posting the notice in public places on Band Land at least 21 days before the date set for the meeting;
- (b) mailing the notice to Members at least 21 days before the date set for the meeting;
- (c) publishing the notice in a community newsletter or local newspaper at least ten business days before the date set for the meeting; and
- (d) such additional methods as Council may consider appropriate in the circumstances.

Quorum

12.4 The quorum for a Meeting of Members is twenty-five percent of the Eligible Voters.

Other Meetings

12.5 Council may schedule more than one Meeting of Members to discuss and decide a matter that requires a Meeting of Members.

Procedural Laws

12.6 Council may make Laws respecting procedures for Meetings of Members.

**13. Ratification Votes**

Community Approval by Ratification Vote

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

- (a) a voluntary exchange of Band Land;
- (b) an expropriation under clause 14;
- (c) amendment of a land use plan that alters the designation of a heritage site designated under that plan;
- (d) an amendment to the Transfer Agreement that reduces the amount of funding provided by Canada; and
- (e) any Law or class of Laws that Council, by Resolution, declares to be subject to this clause.

Transfer Agreement with Canada

- 13.2 For greater certainty, an amendment to, or renewal of, the Transfer Agreement does not require community approval by a Ratification Vote unless the amendment or renewal reduces the amount of funding provided by Canada.

Ratification Process

- 13.3 A Ratification Vote required under this Land Code will be conducted in substantially the same manner as that provided in the McLeod Lake Indian Band Community Ratification Process that was used to ratify this Land Code.

Minimum Requirements for Approval

- 13.4 A matter will be considered approved by a Ratification Vote if a majority of the Eligible Voters participates in the vote and at least a majority of the participating Eligible Voters cast a vote in favour of the matter.

No Verifier

- 13.5 A verifier is not required in a Ratification Vote.

## PART 4 PROTECTION OF LAND

### 14. Expropriation

Rights and Interests That May Be Expropriated

- 14.1 An interest or license in Band Land or in any building or other structure on Band land may only be expropriated by the Band in accordance with the Framework Agreement and a Law enacted in accordance with clause 14.3 of this Land Code.

Community Purposes

- 14.2 An expropriation may only be made for a necessary community purpose or works of the Band, including but not limited to fire halls, sewage or water treatment facilities, community centers, public works, roads, schools, day-care facilities, hospital health care facilities or retirement homes.

Expropriation Law

- 14.3 Before proceeding to make an expropriation in accordance with this Land Code, Council will enact a Law respecting the rights and procedures for expropriations, including provisions respecting:
- (a) the taking of possession of the interest or license;

- (b) transfer of the interest or license;
- (c) notice of expropriation and service of the notice of expropriation;
- (d) the effective date of the expropriation;
- (d) entitlement to compensation;
- (e) determination of the amount of compensation; and
- (f) the method of payment of compensation.

Public Report

14.4 Before the Band expropriates an interest or license, the Band will:

- (a) make a public report on the reasons for the expropriation;
- (b) post a copy of the report in the Band administration offices; and
- (c) mail a copy of the report to all Eligible Voters.

Rights That May Not Be Expropriated

14.5 An interest of Her Majesty the Queen in right of Canada, or an interest previously expropriated under section 35 of the *Indian Act*, is not subject to expropriation by the Band.

Acquisition By Mutual Agreement

14.6 The right of the Band to expropriate is exercisable only after a good faith effort to acquire, by mutual agreement, the interest or license in Band Land.

Community Approval

14.7 An expropriation of a Member's interest has no effect unless the proposed expropriation receives prior community approval by a Ratification Vote.

Compensation for Rights and Interests

14.8 The Band will, in accordance with its Laws and the Framework Agreement:

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

Compensation Calculations

14.9 The total value of the compensation payable under clause 14.8(b) will be based on:

- (a) the fair market value of the interest or license being expropriated;
- (b) the replacement value of any improvement to the land being expropriated;
- (c) the damages attributable to any disturbance; and
- (d) damages for reduction in the value of any remaining interest.

Market Value

14.10 The fair market value of an expropriated interest or license is equal to the amount that would have been paid for the interest or license if it had been sold on Band Land by a willing seller to a willing buyer.

Neutral Evaluation to Resolve Disputes

14.11 The resolution of disputes concerning the right of the Band to expropriate will be determined by neutral evaluation in the same manner as provided in Part IX of the Framework Agreement and the sixty day period referred to in clause 32.6 of the Framework Agreement will be applied, as appropriate in the circumstances, by the neutral evaluator.

Arbitration to Resolve Disputes

14.12 The resolution of the following disputes will be determined by arbitration in the same manner as provided in Part IX of the Framework Agreement:

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

**15. Heritage Sites**

Community Approval

15.1 No land use plan may be amended to alter the designation of a heritage site designated under that plan unless the amendment receives community approval by a Ratification Vote.

**16. Voluntary Land Exchange and Protection**

Conditions for a Land Exchange

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

Land To Be Received

16.2 No land exchange may be agreed to unless the land to be received by the First Nation in the exchange:

- (a) is of equal or greater area than the Band Land to be exchanged;
- (b) is at least comparable to the appraised value of the Band Land to be exchanged; and
- (c) becomes a reserve and Band Land subject to this Land Code.

Negotiators

16.3 Any person who negotiates a land exchange agreement on behalf of the Band must be designated by Resolution.

Additional Compensation

16.4 The Band may receive other compensation, such as money or other land in addition to the land referred to in clause 16.3 and any such other land may be held by the Band in fee simple or other manner.

Federal consent

16.5 Before the Band concludes a land exchange agreement, it must receive a written statement from Canada stating that Her Majesty in right of Canada:

- (a) consents to set apart as a reserve the land to be received in the land exchange under clause 16.2, as of the date of the land exchange or such later date as Council may specify by Resolution; and
- (b) consents to the manner and form of the land exchange as set out in the land exchange agreement.

Community Notice

- 16.6 At such time as negotiation of a land exchange agreement is concluded, and at least 21 days before the Ratification Vote provided for in clause 16.2, Council or the Land Management Committee will provide the following information to Members:
- (a) a description of the Band Land to be exchanged;
  - (b) a description of the land to be received by the Band;
  - (c) a description of any other compensation to be received;
  - (d) a report of a certified land appraiser stating that the conditions in clauses 16.3 (a) and (b) have been met;
  - (e) a copy of the land exchange agreement; and
  - (f) a copy of the statement referred to in clause 16.6.

Process of Land Exchange

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

**PART 5  
ACCOUNTABILITY**

**17. Conflict of Interest**

Application of Rules

- 17.1 Clause 17.2 applies to the following:
- (a) a member of Council who is dealing with any matter before Council that is related to Band Land;

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

Duty to Report and Abstain

17.2 If there is any interest, financial or otherwise, in the matter being dealt with that might involve the individual or the individual's Immediate Relatives, that person will:

- (a) disclose the interest to the Council, employment supervisor, board, committee or other body;
- (b) take no part in any deliberations on that matter; and
- (c) not vote on that matter.

Common Interests

17.3 Clause 17.2 does not apply to any interest that is held by a Member in common with every other Member.

Meeting of Eligible Voters

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

Inability to Act

17.5 If a board, committee or other body is unable to act due to a conflict of interest, the matter will be referred to Council and Council may decide the matter.

Specific Conflict Situations

17.6 Not more than two Immediate Relatives may be members of the same board, committee or other body dealing with any matter that is related to Band Land.

17.7 Clause 17.6 does not apply to Council or any other body elected by the Members.

Disputes

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

Other Laws

17.9 Council may enact such further Laws as may be necessary to implement this section.

**PART 6  
LAND ADMINISTRATION**

**18. Financial Management**

Application

18.1 This section applies only to financial matters related to Band Land.

Financial Planning and Administration

18.2 Council will implement or cause to be implemented a system of financial planning and financial administration for the management of Band moneys through which Council, Band employees and other persons who manage moneys in relation to Band Lands are accountable to the Members.

Adoption of Budget

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

18.4 Prior to adopting a budget referred to in clause 18.2, Council will consult with the Land Management Committee.

Procedure

18.5 After adopting a land management budget or supplementary budget, Council will as soon as practicable:

- (a) present the budget or supplementary budget to the Members at a community meeting or Meeting of Members; and
- (b) make a copy of the budget or supplementary budget available at the Band administration offices for inspection by Members.

If No Budget

18.6 If 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 budget of the previous fiscal year will apply until another budget is adopted.

Other Laws and Policies

18.7 Council may enact such further Laws or adopt such further policies or rules as may be necessary respecting the preparation and implementation of land management budgets under this section.

Expenditures

18.8 Council may not expend moneys related to Band Land or commit, by contract or otherwise, to expend moneys related to Band Land unless the expenditure is authorized under a Law or an approved budget.

Trust Agreement

18.9 This Part is subject to the Trust Agreement.

18.10 For greater certainty, this Land Code recognizes and affirms that the Net Income from Forest Resources and Mineral Resources and Right of Way Revenues, as those terms are defined in the Trust Agreement, will be paid by the Band to the Trustees of the Trust Agreement pursuant to the terms of the Trust Agreement.

**19. Financial Records**

Financial Records

19.1 The Band will keep financial records in accordance with generally accepted accounting principles.

Preparation of Financial Statement

19.2 Within ninety days after the end of each fiscal year, Council will prepare a financial statement in comparative form, containing:

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

Consolidated Accounts

19.3 The accounting, auditing and reporting requirements of this Land Code may be consolidated with other accounts, audits and reports of the Band.

Establishment of Bank Accounts

19.4 Subject to the Trust Agreement, Council will maintain one or more financial accounts in a financial institution and will deposit in those accounts:

- (a) transfer payments received from Canada for the management and administration of Band Land;
- (b) moneys received by the Band from the grant or disposition of interests or licenses in Band Land with the exception of moneys received from Forest Resources, Mineral Resources and Right of Way Revenues as provided in article 2.8 of the Trust Agreement;
- (c) all fees, fines, charges and levies collected under a Law or Resolution;
- (d) all capital and revenue moneys received from Canada from the grant or disposition of any interests and licenses in Band Land; and
- (e) other land revenue received by the Band from Band Land.

Signing Officers

19.5 Council will authorize at least three individuals, one of whom will be a member of Council, one of whom will be a member of the Land Management Committee and one of whom may be an individual employed as Land Manager, to sign cheques and other bills of exchange or transfer drawn on the accounts referred to in clause 19.4.

Two Signatures

19.6 A cheque or other bill of exchange or transfer drawn on an account referred to in clause 19.4 must be signed by the member of Council and either of the two other individuals authorized under clause 19.5.

Fiscal Year

19.7 The fiscal year of the Band will begin on April 1 of each year and end on March 31 of the following year.

Other Laws and Policies

19.8 Council may enact such further Laws or adopt such further policies as may be necessary to implement this section.

Offences

19.9 It is an offence for any person who has control of the financial records of the Band to:

- (a) impede or obstruct anyone from exercising a right to inspect those records; or

- (b) fail to give all reasonable assistance to anyone exercising a right to inspect those financial records.

**20. Borrowing and Investment**

Loans

- 20.1 Council may borrow moneys for purposes related to Band Land.

Detailed financial plan

- 20.2 Council will ensure that for any moneys borrowed, a detailed financial plan is developed to repay the debt or liability.

Security pledge

- 20.3 Subject to section 29 of the *Indian Act* Council may pledge such security as may be necessary to secure a loan.

Other laws and policies

- 20.4 Council may enact such further Laws or adopt such further policies as may be necessary to implement this section.

Investment

- 20.7 Money borrowed or revenue raised from Band Land may be invested or reinvested by Council in one or more of the following:

- (a) investments guaranteed by a chartered bank or trust company;
- (b) deposits in a savings institution, or non-equity or membership shares of a credit union;
- (c) securities of Canada or of a Province;
- (d) securities guaranteed for principal and interest by Canada or by a Province;
- (e) pooled investment funds under the First Nation Finance Authority, which include the money market and intermediate funds;
- (f) commercial paper issued by a company incorporated under the laws of Canada or of a Province, the securities of which are rated in the highest security rating by at least 2 recognized security rating institutions;
- (g) any of the classes of investments permitted under Clause 15 of the Trustee Act; or

- (h) such other securities or investments that have relatively no risk, are of the highest quality, are diversified and have a high grade investment rating as determined by at least 2 recognized security rating institutions.

**21. Audit**

Appointment of auditor

- 21.1 For each fiscal year, Council will appoint a duly accredited auditor to audit the financial records under this Part.

Holding Office

- 21.2 An auditor will hold office until reappointed or replaced.

Vacancy in Office

- 21.3 If a vacancy occurs during the term of an auditor, Council will forthwith appoint a new auditor for the remainder of the former auditor's term.

Remuneration

- 21.4 An appointment under clause 21.1 will contain a statement approving the remuneration to be paid to the auditor.

Duty of Auditor

- 21.5 The auditor will, within 120 days after the end of the Band fiscal year, prepare and submit to Council an audit report on the Band's financial statement stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of the Band in accordance with generally accepted accounting principles applied on a basis consistent with that applied in the previous fiscal year.

Access to Records

- 21.6 In order to prepare the report on the Band's financial statement, the auditor may at all reasonable times inspect any financial records of the Band and the financial records of any person or body who is authorized to administer money related to Band Land.

Presentation of Auditor's Report

- 21.7 Council will present the auditor's report to the Members at a Meeting of Members.
- 21.7 Nothing precludes an auditor appointed for other Band audits from being appointed under clause 21.1.

**22. Annual Report**

## Publish Annual Report

22.1 Council will, within thirty days of receiving an audit report under clause 21.5, prepare and table with the Land Management Committee an annual report on Band Land management that includes:

- (a) an annual review of Band Land management activities;
- (b) a copy and explanation of the audit report as it applies to Band Lands; and
- (c) such other matters as may be determined by Council or requested by the Land Management Committee.

**23. Access to Financial Information**

## Copies for Members

23.1 A Member may, during normal business hours at the Band administration office, upon payment of any reasonable fee set by Resolution, obtain a copy of the auditor's report, annual report on Band Land management, budget or supplementary budget.

**24. Land Management Committee**

## Land Management Committee Established

24.1 A Land Management Committee is hereby established to:

- (a) assist with the development of a Band Land administration system;
- (b) advise Council and Band staff on matters respecting Band Land;
- (c) recommend to Council Laws, Resolutions, policies and procedures respecting Band Land;
- (d) hold regular and special meetings of Members to discuss Band Land issues and make recommendations to Council on the resolution of such issues;
- (e) assist in the exchange of information regarding Band Land issues between Members and Council;
- (f) oversee community approvals under this Land Code; and
- (g) perform such other duties and functions as Council may direct.

Development of Land Related Rules and Procedures

24.2 Within a reasonable time after this Land Code takes effect, Council will, in consultation with the community and the Land Management Committee, establish rules and procedures that address the following matters:

- (a) the process and criteria for granting interests in Band Land;
- (b) the process and criteria for appeal from a decision to grant or refuse to grant interests in Band Land;
- (c) environmental protection and assessment in relation to Band Land;
- (d) resolution of disputes in relation to Band Land;
- (e) Band Land use planning and zoning; and
- (f) clause 39 respecting spousal property.

Implementation of Policies

24.3 Rules and procedures developed in accordance with clause 24.2 will be considered by Council for implementation as Laws, policies or amendments to this Land Code.

Internal Procedures

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

**25. Membership of the Land Management Committee**

Composition

25.1 The Land Management Committee will be composed of five Eligible Voters.

Eligibility to be Nominated As Committee Member

25.2 Any Eligible Voter, whether or not resident on Band Land, is eligible to be nominated and elected to the Land Management Committee, except for:

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

- (d) an Eligible Voter who, at the time of the nomination or election, is a Plaintiff in legal proceedings against the Band regarding Band Land.

Selection of Land Management  
Committee Members

- 25.3 The members of the Land Management Committee are to be elected by Eligible Voters.
- 25.4 Council will appoint an interim Land Management Committee to hold office until an election is held under clause 25.3.

Term of Office

- 25.5 The term of office of an elected member of the Land Management Committee elected under this Land Code shall not exceed six years, but nothing precludes an incumbent from being nominated for further terms.

Staggered Term of Office

- 25.6 In the first election held after this Land Code comes into force:
  - (a) the nominees receiving the highest, second highest and third highest number of votes will hold office for a term commencing at midnight on the date of the election and expiring at midnight six years following the date of the election or upon being replaced in a subsequent election, whichever occurs first; and
  - (b) the nominees receiving the fourth highest and fifth highest number of votes will hold office for a term commencing at midnight on the date of the election and expiring at midnight three years following the date of the election or upon being replaced in a subsequent election, whichever occurs first.
- 25.7 Thereafter, the elected members of the Land Management Committee will hold office for a term commencing at midnight on the date of their election and expiring at midnight six years following the date of the election, or upon being replaced in office in a subsequent election, whichever occurs first.

Election Law

- 25.8 Council will enact a Law to establish the procedure for Land Management Committee elections, including such additional transitional rules as may be necessary for the members of the first Land Management Committee.
- 25.9 The first election for members of the Land Management Committee after this Land Code comes into effect will be held no more than fourteen days after the next election of a Council, and no more than fourteen days after each election of Council thereafter.

Vacancy on Land Management Committee

- 25.7 The office of a member of the Land Management Committee becomes vacant if the member, while holding office:
- (a) is or becomes ineligible to hold office under clause 25.2;
  - (b) ceases to be a Band Member;
  - (c) is absent for three consecutive meetings of the Land Management Committee for a reason other than illness or incapacity without being authorized to be absent by the Land Management Committee;
  - (d) dies or becomes mentally incompetent; or
  - (e) resigns.

Vacancy in term

- 25.8 Where the office of a member of the Land Management Committee becomes vacant more than 90 days before the date when another election would ordinarily be held:
- (a) The nominee, if any, having the next highest count of votes without being declared elected at the last Land Management Committee election will be declared elected to the Land Management Committee; or
  - (b) a special election may be held in accordance with this Land Code to fill the vacancy.

Balance of term of office

- 25.9 The term of a member of the Land Management Committee selected to fill a vacancy under clause 25.8 is the balance of the term in respect of which the vacancy occurred.
- 25.10 The members of the Land Management Committee will accept their selection as members, accept the duties and obligations of same and agree to observe and carry out the same according to the terms and conditions of this Land Code.

**26. Chair of the Land Management Committee**

Chair

- 26.1 The members of the Land Management Committee will select a Chair.

Alternate Chair

26.2 If the Chair is unable to perform the functions of office, the Land Management Committee will appoint another member of the Land Management Committee to serve as Chair.

Duties of the Chair

26.3 The duties of the Chair are:

- (a) to chair meetings of the Land Management Committee;
- (b) to ensure that financial statements relating to all activities of the Land Management Committee, including any applicable revenues and expenditures concerning Band Lands, are prepared;
- (c) to table any Land Management Committee financial statements with Council;
- (d) to report to Council and the Members on the activities of the Land Management Committee;
- (e) to monitor the presentation of the audited annual financial statements under clause 21.7; and
- (f) to perform such other duties as Council or the Land Management Committee may reasonably prescribe.

**27. Revenue From Lands**

Determination of Fees and Rent

27.1 The Land Management Committee will recommend to Council a process for determining:

- (a) fees and rent for interests and licenses in Band Land;
- (b) fees for services provided in relation to any Band Land and compliance with this Land Code; and
- (c) standards and qualifications for employees and contractors hired for purposes of implementing and administering this Land Code.

Consideration of Obligation

27.2 Subject to clause 19.4, the Land Management Committee will recommend to Council processes and criteria for managing the First Nation's obligations in relation to revenue from lands.

**28. Registration of Interests and Licenses**

Band Lands Register

- 28.1 Council will maintain a Band Lands Register in the same form and with the same contents as the First Nation Lands Register.
- 28.2 An interest or license in Band Land created or granted after this Land Code comes into effect is not enforceable unless it is registered in the Band Lands Register.
- 28.3 No instrument that requires the consent of Council or community approval may be registered in the Band Lands Register unless a certified copy of the document that records the consent or approval is attached to the instrument.
- 28.4 Every person who receives an interest or license in Band Land from a Member will deposit an original copy of the relevant instrument in the Band Lands Register.

First Nation Lands Register

- 28.5 Council will ensure that a duplicate copy of the following instruments is deposited in the First Nation Lands Register:
  - (a) a grant of an interest or license in Band Land;
  - (b) a transfer or assignment of an interest in Band Land;
  - (c) a land use plan, subdivision plan or resource use plan; and
  - (d) this Land Code and any amendment to this Land Code.

**PART 7  
FOREST RESOURCES**

**29. Forest Practices**

- 29.1 Forest Practices on Band Land will be regulated in accordance with Article 6 of the McLeod Lake Indian Band Treaty No. 8 Adhesion and Settlement Agreement.
- 29.2 For greater certainty, the Band will conduct Forest Practices on Band Land in accordance with:
  - (a) the McLeod Lake Indian Band Forest Practices Code;
  - (b) the McLeod Lake Indian Band forest development plans;

- (c) principles of sustainable forest use; and
- (d) any applicable federal legislative requirements.

**PART 8  
INTERESTS AND LICENSES IN LAND**

**30. Limits on Interests and Licenses**

All Dispositions in Writing

- 30.1 An interest in, or license to use, Band Land may only be created, granted, disposed of, assigned or transferred by a written document issued in accordance with this Land Code.

Standards

- 30.2 Council may, after full and fair consideration of any recommendations made by the Land Management Committee under clause 24.2, establish mandatory standards, criteria and forms for interests and licenses in Band Land.

Improper Transactions Void

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

Non-Members

- 30.4 A person who is not a Member may hold a lease, license or permit in Band Land.

Grants to Non-Members

- 30.5 The written consent of Council must be obtained for any grant or disposition of a lease, license or permit in Band Land to a person who is not a Member.

**31. Existing Interests**

Continuation of existing interests

- 31.1 An interest or license in Band Land that exists when this Land Code comes into effect will, subject to this Land Code, continue in force in accordance with its terms and conditions.

**32. New Interests and Licenses**

Authority to Make Dispositions

32.1 Subject to clause 11.1, Council may under this Land Code grant:

- (a) interests and licenses in Community Land, including leases, permits, easements and rights-of-ways; and
- (b) permits to take resources from Community Land, including but not limited to, cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances.

Conditional Grant

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

Role of the Land Management Committee

32.3 The Land Management Committee will advise Council on the granting of interests, licenses and permits and may be authorized to act as a delegate of Council under clause 6.4.

**33. Possession of Land by Members**

Nature of Members Interest

33.1 Subject to clause 11.1, Council may enact Laws providing for interests in Band Land that entitle a Member holding Band Land to:

- (a) benefit from the resources in and of that land;
- (b) grant subsidiary interests and licenses in that land, including leases, permits, easements and rights-of-ways; and
- (c) transfer, devise or otherwise dispose of that land to another Member.

**34. Allocation of Land**

Allocation of Lots

34.1 Subject to clause 34.2, Council may, by lease or rental arrangement, allocate lots of available land to Members in accordance with Laws established by Council.

34.2 Council may not allocate permanent possession of Band Land to a Member.

**35. Transfers and Assignment of Interests**

Transfer of Interests

35.1 A Member may transfer or assign an interest in Band Land to another Member without community approval or consent of Council.

Consent of Council

35.2 Except for transfers or assignments under clause 35.1 and transfers that occur by operation of Law, including transfers of estates by testamentary disposition or in accordance with a Law enacted pursuant to clause 39:

- (a) there will be no transfer or assignment of an interest in Band Land without the written consent of Council; and
- (b) the grant of an interest or license is deemed to include clause 35.2(a) as a condition of any subsequent transfer or assignment.

**36. Limits on Mortgages and Seizures**

Protections

36.1 In accordance with the Framework Agreement, sections 29, 87, 89(1) and 89(2) of the *Indian Act* continue to apply to Band Land.

Mortgage of Member's Interest

36.2 The interest of a Member in Band Land may be subject to a mortgage or charge only to the Band.

Mortgages of Leasehold Interests With Consent

36.3 A leasehold interest may be subject to charge or mortgage only with the written consent of Council.

Time Limit

36.4 The term of any charge or mortgage of a leasehold interest will not exceed the lesser of:

- (a) the term of the lease;
- (b) 25 years; or
- (c) such longer period as may receive community approval at a Meeting of Members.

**Default in Mortgage**

- 36.5 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, foreclosure, power of sale or any other form of execution or seizure, unless:
- (a) the charge or mortgage received the written consent of Council;
  - (b) the charge or mortgage received community approval where required;
  - (c) the charge or mortgage was registered in the Band Lands Register; and
  - (d) a reasonable opportunity to redeem the charge or mortgage was given to Council.

**Power of Redemption**

- 36.6 If Council exercises its power of redemption with respect to a leasehold interest, the Band becomes the lessee of the land and takes the position of the chargor or mortgagor for all purposes after the date of the redemption.

**37. Residency and Access Rights****Right of Residence**

- 37.1 The following persons may reside on Band Lands:
- (a) a Member who has been allocated a residential lot by Council;
  - (b) a Spouse and children of a Member referred to in clause 37.1(a);
  - (c) a Member with a registered interest in Band Land; and
  - (d) a lessee or permittee in accordance with the provisions of the instrument granting the lease or permit.

**Right of Access**

- 37.2 The following persons have a right of access to Band Lands:
- (a) an invitee of a Member referred to in clause 37.1(a) or (b) unless prohibited by a Resolution;
  - (b) a lessee of Band Land;
  - (c) a lessee of Band Land's invitee;

- (d) a permittee and any person who is granted a right of access under the permit;
- (e) a Member;
- (f) a Member's Spouse and children;
- (g) a person who is authorized by a government body or any other public body, established by or under an enactment of the Band, Canada or British Columbia to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey;
- (h) a person who has a right of access recognized under the McLeod Lake Indian Band Treaty No. 8 Adhesion and Settlement Agreement; or
- (i) a person authorized in writing by Council, the Land Management Committee or by a Law.

#### Public Access

37.3 A person may have access to Band Land for social or business purposes if:

- (a) that person does not trespass on occupied land and does not interfere with any interest in land;
- (b) that person complies with all applicable Laws; and
- (c) no Resolution has been enacted prohibiting that person from having access to Band Land.

#### Trespass

37.4 It is an offence for any person to reside on, enter or remain on Band Land other than in accordance with a right of residence or access under this Land Code.

#### Civil Remedies

37.5 All civil remedies for trespass are preserved.

### **38. Transfers on Death or Mental Incompetence**

#### Right of Surviving Spouse

38.1 In the event that:

- (a) a Member holding an interest in Band Land dies and is survived by a Spouse who does not hold a registered interest in that land; or

- (c) a Member holding an interest in Band Land is declared incompetent due to mental incapacity,

the Member's Spouse may reside on and use the land until such time as a determination is made under clause 38.2(b).

#### Location of Family Members

38.2 If no provision has been made by such Member for the disposition of the interest in the Band Land to another Member:

- (a) council will take reasonable steps to advise the Member's Immediate Relatives that the land held by the Member is available for disposition; and
- (b) the Member's Immediate Relatives may, with the assistance of the Panel if requested, decide who among them is to receive the interest in the land.

#### Meeting of Members

38.3 If such Member has no Immediate Relatives, or if the Immediate Relatives cannot within 12 months of the date of such Member's death or declaration of incompetence decide who is to receive the interest, Council will call a Meeting of Members to discuss the issue and make a decision on the disposition of the interest.

### 39. Spousal Property Law

#### Development of Rules and Procedures

39.1 Within twelve months after the date this Land Code takes effect Council will enact a spousal property Law providing rules and procedures applicable on the breakdown of a marriage, to:

- (a) the use, occupancy and possession of Band Land; and
- (b) the division of interests in that land.

#### Enactment of Rules and Procedures

39.2 The rules and procedures contained in the spousal property Law will be developed by the Land Management Committee in consultation with the community.

#### General Principles

39.3 The rules and procedures developed by the Land Management Committee under clause 39.2 will respect the following general principles:

- (a) the children of the Spouses, if any, should have a right to remain undisturbed in the matrimonial home;

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

Interim Rules

- 39.4 Council may enact a spousal property Law as soon as practicable after this Land Code comes into force.
- 39.5 A Law enacted under clause 39.4 will expire twelve months after the coming into force of this Land Code unless re-enacted, replaced or amended in accordance with clause 39.1.

**PART 9  
DISPUTE RESOLUTION**

**40. Dispute Resolution Panel**

Panel Established

- 40.1 A Dispute Resolution Panel is hereby established with jurisdiction to resolve disputes in relation to Band Land.

Appointment of Panel

- 40.2 A Panel will be composed of three Eligible Voters.

Representation

- 40.3 The Land Management Committee will appoint the Panel, and may for the purposes of identifying potential members of the Panel, establish an eligibility list that will ensure that the Panel represents the various elements of the community, including Elders, youth and non-resident Members.

Disputes with the Land Management Committee

- 40.4 Notwithstanding clause 40.3, in the event of a dispute with the Land Management Committee, and unless otherwise agreed by the Parties to the dispute, a Panel will be appointed as follows:
  - (a) one Panelist by the Land Management Committee;

- (b) one Panelist by Council; and
- (c) one Panelist by the person initiating the dispute.

Term of Office

40.5 A Panelist will hold office for a maximum term of three years.

No Remuneration

40.6 Unless Council by Resolution provides otherwise, panelists will receive no remuneration.

**41. Dispute Procedure**

Disputes

41.1 Any matter or dispute related to Band Land may be referred to the Panel for resolution.

Prior Disputes

41.2 For greater certainty, disputes that originated before this Land Code comes into effect may be referred to the Panel.

Optional Process

41.3 Referral of a dispute to the Panel is optional and all other civil remedies continue to be available to a party to the dispute.

Informal Resolution of Disputes

41.4 If a Member, or a non-Member with an interest in Band Land, disputes a decision of Council or the Land Management Committee that person will attempt to resolve the dispute directly with Council or the Land Management Committee, as the case may be, before referring the dispute to the Panel.

Application Procedures

41.5 Referral of a dispute to the Panel will be made in accordance with procedures established by the Panel.

Limitation Period

41.6 The limitation period for referring a dispute to the Panel is:

- (a) thirty days after the day the decision, act or omission that is the subject of the dispute was made;

- (b) in the case of a decision under clause 38.2(b), 18 months after the date of the decision; or
- (c) in the case of a dispute with the Land Management Committee or Council, thirty days after the Land Management Committee or Council rejects resolution under clause 41.4.

**42. Impartiality**

Duty to Act Impartially

42.1 The Panel will 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, to improperly influence a decision of the Panel.

Rejection of Application

42.3 In addition to any other sanction, the Panel may refuse an application to hear a dispute if the Panel reasonably concludes that the applicant acted, or attempted to act, in a way to improperly influence the Panel's 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 for reconsideration.

Rules of Panel

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

Professional Services

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

Written Decisions

- 43.4 Decisions of the Panel will be in writing and signed by the individual chairing the Panel or by an officer designated by the Panel.

Reasons

- 43.5 The Panel will give reasons for a decision.
- 43.6 The Panel will give written reasons for a decision if a party to the proceedings so requests within 14 days after the date of the decision.

Appeal of Decision

- 43.7 A decision of the Panel is binding but, subject to any exception established by a Law, may be appealed to the Federal Court of Canada.

## PART 10 OTHER MATTERS

### 44. Liability

Liability Insurance

- 44.1 Council will arrange for, maintain and pay out of the transfer payments received from Canada, insurance coverage for:
- (a) liability of the Band in relation to Band Land; and
  - (b) the Band's officers and employees engaged in carrying out any matter related to Band Land to indemnify them against personal liability arising from those activities.

Extent of Coverage

- 44.2 Council will determine the extent of insurance coverage under clause 44.1.
- 44.3 Every employee of the Band whose responsibilities include administration of Band Land or collecting or accounting for revenue from Band Land must be bondable.

### 45. Offences

Application of the Criminal Code

- 45.1 Unless a Law provides for another procedure, the summary conviction procedures of Part XXVII of the *Criminal Code* apply to offences under this Land Code or under a Law.

Justices of the Peace

45.2 For greater certainty, Council may enact Laws respecting justices of the peace for the enforcement of this Land Code and Laws.

Provincial Courts

45.3 If no justice of the peace is appointed, this Land Code and Laws are to be enforced in the Provincial Court of British Columbia.

**46. Amendments to Land Code**

Meeting of Members

46.1 An amendment to this Land Code must receive community approval at a Meeting of Members.

**47. Commencement**

Preconditions

47.1 This Land Code will not take effect unless:

- (a) the Members approve this Land Code and the Transfer Agreement with Canada by a Ratification Vote; and
- (b) this Land Code has been certified by the verifier pursuant to the Framework Agreement.

Effective Date

47.2 Subject to clause 47.1, this Land Code will take effect on the first day of the month following certification of this Land Code by the verifier.