



MAGNETAWAN FIRST NATION

LAND CODE, 2017

The *Magnetawan First Nation Land Code, 2017* consolidates:

- original Magnetawan First Nation Land Code dated 19 March 2015
- minor revisions pursuant to subs. 49.1 of the Land Code adopted by BCR 2017-19-027 passed on 15 August 2017
- amendments ratified on 01 October 2017

CERTIFIED

pursuant to subsection 8.8 of the *Land Code*

Quorum of Council:	2 <hr/> present in person	<hr/> Date of Certification	
<hr/> (Chief)	<hr/> (Councillor)	<hr/> (Councillor)	

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MAGNETAWAN FIRST NATION LAND CODE

Preamble

Whereas the Magnetawan First Nation has a profound relationship with the Land that is rooted in respect for the Spiritual value of the Earth and the gifts of the Creator and has a deep desire to preserve their relationship with the Land;

And Whereas fourteen First Nations and Canada concluded a government-to- government *Framework Agreement* on First Nation Land Management on February 12, 1996;

And Whereas the *Framework Agreement* on First Nation Land Management provides the option to First Nations of withdrawing their reserve Land from the land management provisions of the *Indian Act* in order to exercise control over their Land and resources for the use and benefit of their Members;

And Whereas Canada ratified its commitment to the *Framework Agreement* on First Nation Land Management with the enactment of the First Nations Land Management Act, S.C. 1999, c.24;

And Whereas Magnetawan First Nation became a signatory on March 3, 2014 to the *Framework Agreement* on First Nation Land Management, as Magnetawan First Nation wishes to govern its Land and resources under the Magnetawan First Nation Land Code, rather than having its Land and resources managed on its behalf under the *Indian Act*,

And Whereas the *Framework Agreement* on First Nation Land Management acknowledges that Canada's special relationship with Magnetawan First Nation will continue;

And Whereas the *Framework Agreement* on First Nation Land Management is ratified by Magnetawan First Nation through community approval of the Magnetawan First Nation Land Code;

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

PART 1 PRELIMINARY MATTERS

1. Title

Title

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

2. Definitions

Clarification

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

Definitions

- 2.2 The following definitions apply in this Land Code:

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

“**Commercial Purposes**” means a use of Magnetawan First Nation Land intended to produce income for Magnetawan First Nation or other persons having an interest or licence therein;

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

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

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

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

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

“**First Nation Lands Register**” means the register established pursuant to clause 51 of the *Framework Agreement* and maintained by the Department of Aboriginal Affairs and Northern Development Canada;

“Framework Agreement” means the *Framework Agreement on First Nation Land Management*, entered into between Canada and the signatory First Nations on February 12, 1996, and amended to include Magnetawan First Nation on March 3, 2014;

“Immediate Relatives”, in respect of a person, means the person’s parent, sister, brother, child, and Spouse;

“Individual Agreement” means the Individual Agreement made between Magnetawan First Nation and Canada in accordance with clause 6.1 of the *Framework Agreement*;

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

“Land” or “Magnetawan First Nation Land” means any reserve Land that is subject to this Land Code;

“Land Code” means the *Magnetawan First Nation Land Code*, and sets out the basic provisions regarding the exercise of the Magnetawan First Nation’s rights and powers over its Land;

“Land Law” means a law, including, but not limited to, policies, regulations, standards, restricted to Magnetawan First Nation Land, enacted in accordance with this Land Code;

“Lands Committee” means the Lands Committee established under Part 6 of this Land Code;

“Licence” in relation to Magnetawan First Nation Land, means any right of use or occupation of that Land, other than an Interest in the Land;

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

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

“Magnetawan First Nation” means the Magnetawan First Nation and its Members;

“Panel” means the Dispute Resolution Panel established under Part 8 of this Land Code;

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

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

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

3. Interpretation

Interpretation

3.1 In this Land Code:

- (a) the Land Code **shall** be interpreted in a fair, large and liberal manner;
- (b) the word “**shall**” signifies an obligation that, unless this Land Code provides to the contrary, must be carried out as soon as practicable after this Land Code comes into effect or the event that gives rise to the obligation;
- (c) unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;
- (d) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine;
- (e) titles and headings of Parts and provisions have been inserted in the Land Code for convenience of reference only, and are not interpretive aids;
- (f) unless otherwise clear from the context, whenever the singular is used, it will include the plural, and the use of the plural includes the singular;
- (g) all references to a time period of days means consecutive days and not business days;
- (h) where the time limited for the doing of an act expires or falls on a Saturday or Sunday, or a First Nation, federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday;
- (i) where the time limited for the doing of an act in the Magnetawan First Nation administration building falls on a day when the office is not open during regular business hours, the act may be done on the next day that the office is open;
- (j) where there is a reference to a number of days or a number of days between two events, in calculating that number of days, the days on which the events happen are excluded; and
- (k) the principles set out in the Preamble to this Land Code may be used to interpret this Land Code.

Culture and traditions

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

Language

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

Paramountcy

- 3.4 If there is an inconsistency or conflict between this Land Code and any other enactment of the Magnetawan First Nation, including a by-law enacted under section 81 of the *Indian Act*, this Land Code prevails to the extent of the inconsistency or conflict.

Consistency with Framework Agreement

- 3.5 If there is an inconsistency or conflict between this Land Code and the *Framework Agreement*, the *Framework Agreement* will prevail to the extent of the inconsistency or conflict.

Rights not affected

- 3.6 This Land Code does not change:
- (a) the by-law powers of Council pursuant to the *Indian Act*,
 - (b) any Aboriginal, Treaty, inherent rights or other rights or freedoms that pertain now or in the future to the Magnetawan First Nation or its Members; or
 - (c) the fiduciary relationship between Canada and Magnetawan First Nation and its Members.

Lands and Interests affected

- 3.7 A reference to Land in this Land Code means all rights and resources in and of that Land, and includes:
- (a) the water, beds underlying water, Riparian Rights, and renewable and non-renewable natural resources in and of that Land, to the extent that these are under the jurisdiction of Canada;
 - (b) all the Interests and Licences granted to the Magnetawan First Nation by Canada listed in the Individual Agreement; and
 - (c) all the Interests and Licences granted by Magnetawan First Nation after this Land Code comes into effect.

Eligible Reserve Land

- 3.8 Only Land that has reserve status is eligible to be governed under this Land Code.

4. Authority to Govern

Origin of authority

- 4.1 The traditional teachings of the Magnetawan First Nation speak of the obligation of the people of the Magnetawan First Nation to care for and respect the Land and the magnificent wonders of Nature created on the Land. By enacting this Land Code, the Magnetawan First Nation is reclaiming this special responsibility.

Flow of authority

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

5. Purpose

Purpose

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

6. Description of Magnetawan First Nation Land

Magnetawan First Nation Land

- 6.1 The Magnetawan First Nation Land that is subject to this Land Code is that Land known as Magnetawan Indian Reserve No.1.

Description of Land

- 6.2 The Magnetawan First Nation Land includes all reserve Lands listed in the Individual Agreement and such other Lands as may be described in the Individual Agreement as amended from time to time, and more particularly described in Appendix "A".

Additional Lands

- 6.3 Council may receive Community consultation in accordance with section 13, prior to the amendment of the description of Land or addition of reserve Land to the Land Code.

No Approval Required

- 6.4 For greater certainty, a community approval or ratification vote is not required for amending the description of reserve Land in the Land Code and Individual Agreement.

Inclusion of Land or Interest

- 6.5 Council may, by Resolution, declare the Land or Interest to be subject to this Land Code.

PART 2 FIRST NATION LEGISLATION

7. Law-Making Powers

Council may make Land Laws

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

- (a) the development, conservation, protection, management, use and possession of Magnetawan First Nation Land;
- (b) Interests and Licences in relation to Magnetawan First Nation Land; and
- (c) any matter necessary or ancillary to the making of Land Laws in relation to the Magnetawan First Nation Land.

Examples of Land Laws

7.2 For greater certainty, Council may make Land Laws including, but not limited to:

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

Regulatory Instruments

7.3 For greater certainty, in addition to Land Laws, Council may make other regulatory instruments, including, but not limited to, rules, regulations, standards, codes and policies.

8. Law-Making Procedure

Introduction of Land Laws

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

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

Rationalization of Proposal

8.2 It **shall** be incumbent upon any proponent mentioned in clause 8.1 to submit a written explanation for the reason for the proposed Land Law.

Procedure upon receipt of Proposal

- 8.3 Upon receipt of a Land Law proposal, Council may:
- (a) table the Land Law proposal for further review or for enactment;
 - (b) request that the proponent provide further information or attend before a future meeting of Council to speak to the Land Law proposal;
 - (c) undertake or direct the preparation of a draft Land Law concerning matters raised in the Land Law proposal, for consideration by Council; or
 - (d) decline the Land Law proposal.

Tabling and posting of proposed Land Laws

- 8.4 Before a proposed Land Law may be enacted by Council, it **shall** first be:
- (a) tabled at a duly convened meeting of Council held at least forty-two (42) days before the Land Law is to be enacted;
 - (b) deposited with the Lands Committee at least thirty-five (35) days before the Land Law is to be enacted; and
 - (c) provided to the Members, posted in public places on Magnetawan First Nation Land and publicly available online at least thirty-five (35) days before the Land Law is to be enacted.

Urgent matters

- 8.5 Council may enact a Land Law without the preliminary steps required under clause 8.4, if Council is of the opinion that the Land Law is needed urgently for public health and safety or to protect Magnetawan First Nation Land or the Members.

Expiration

- 8.6 A Land Law enacted under clause 8.5 expires one hundred and twenty (120) days after its enactment unless re-enacted in accordance with clause 8.4.

Approval of Land Law

- 8.7 Subject to this Land Code, a Land Law is approved by a quorum of Council at a duly convened meeting of Council open to the Members.

Certification of Land Laws

- 8.8 The original copy of any approved Land Law or Resolution concerning Magnetawan First Nation Land **shall** be signed by a quorum of Council.

Land Laws taking effect

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

9. Publication of Land Laws

Publication

- 9.1 Land Laws pursuant to this Land Code **shall** be published:
- (a) in the minutes of the Council meeting at which it was enacted;
 - (b) by posting a copy of the Land Law in a location within the administrative office of Magnetawan First Nation accessible to all Members, as soon as practicable after enactment and for a period of not less than thirty (30) days thereafter;
 - (c) by making it publicly available on the First Nation website; and
 - (d) any additional method as Council may consider appropriate.

Registry of Land Laws

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

Copies for any Person

- 9.3 Any person may obtain a copy of a Land Law or Resolution on payment of a reasonable fee set by Council or a designate. Fees may be amended from time to time.

10. Enforcement of Land Laws

Enforceability of Land Laws

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

Prosecuting Offences

- 10.2 For the purpose of prosecuting offences, Magnetawan First Nation **shall** follow one or more of these options:
- (a) retain its own prosecutor;
 - (b) enter into an agreement with the government of the province of Ontario to arrange for a provincial prosecutor; or

- (c) make laws with respect to the appointment of justices of the peace.

PART 3 COMMUNITY MEETINGS AND APPROVALS

11. Participation of Members

Participation of Members

- 11.1 Every Member is entitled to participate in the community meetings process set out in Part 3 of this Land Code.

12. Participation of Eligible Voters

Participation of Eligible Voters

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

13. Community Meetings of Members

Community Meetings

- 13.1 Council **shall** call a Meeting of Members prior to:
 - (a) declaring Land or an Interest to be subject to this Land Code;
 - (b) enacting a Land Law respecting a community plan or subdivision plan;
 - (c) any development affecting a heritage site or an environmentally sensitive property;
 - (d) enacting a Land Law respecting environmental assessment and protection;
 - (e) enacting a Land Law respecting the transfer and assignment of rights and Interests in Magnetawan First Nation Land;
 - (f) enacting a Land Law respecting matrimonial real property on Magnetawan First Nation Land under section 39;
 - (g) enacting a Land Law respecting the rate and criteria for the payment of fees or rent for Magnetawan First Nation Land;
 - (h) enacting a Land Law respecting the rights and procedures on community expropriation; and
 - (i) respecting any other matter, Land Law or class of law that Council, by Resolution, declares to be subject to this section.

No Quorum

13.2 For greater certainty, a community meeting for input purposes does not require a quorum.

14. Procedure at a Meeting of Members

Notice of meeting

14.1 Council **shall** give written notice of the Meeting of Members that **shall** include:

- (a) the date, time and place of the meeting;
- (b) a brief description of the matters to be discussed and decided on at the meeting; and
- (c) such other information and material that Council may consider appropriate.

Manner of notice

14.2 The notice of a Meeting of Members **shall** be given to the Members by:

- (a) posting the notice in public places on Magnetawan First Nation Land at least forty two (42) days before the meeting;
- (b) mailing the notice to Members and taking reasonable steps to locate and inform Members who reside on and off-reserve at least forty two (42) days before the meeting;
- (c) posting the notice on a website maintained by the Magnetawan First Nation that is open and accessible by any person who may be entitled to attend the meeting at least forty two (42) days before the meeting;
- (d) publishing the notice in the community newsletter or local newspaper at least thirty five (35) days before the meeting; and
- (e) such additional method as Council may consider appropriate in the circumstances.

Permission of Council

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

Informed Decision

14.4 Council may schedule more than one Community Meetings of Members as may be necessary to ensure that Members are well informed before making a decision on a proposed Land Law or Land matter.

15. Community Approval

Community approval

15.1 Community approval **shall** be obtained for the following:

- (a) any master Land use plan;
- (b) any new grant or disposition of an Interest or Licence in any Magnetawan First Nation Land exceeding a term of thirty five (35) years;
- (c) any renewal of a grant or disposition of an Interest or Licence in any Magnetawan First Nation Land that extends the original term beyond thirty five (35) years;
- (d) any grant or disposition of any non-renewable natural resources on any Magnetawan First Nation Land exceeding a term of five (5) years;
- (e) any deletion of a heritage site;
- (f) any voluntary exchange of Magnetawan First Nation Land referred to in section 18 of this Land Code; and
- (g) any Land Law or class of law that Council, by Resolution, declares to be subject to this section.

Method of Voting

15.2 Community approval may be obtained by calling for a vote, and one or more of the following methods, including:

- (a) establishing polling locations;
- (b) show of hands;
- (c) mail-in ballot;
- (d) phone voting;
- (e) electronic voting; or
- (f) any other method outlined in voting policies.

Quorum

15.3 In order to obtain a quorum for community approval under section 15 of this Land Code at least ten percent (10%) of Eligible Voters **shall** participate.

Approval by Majority

15.4 For community approvals under section 15, a matter **shall** be considered approved if a majority of fifty percent plus one (50%+1) of the Eligible Voters cast a vote to approve the matter.

Second Community Approval

15.5 If a quorum was not obtained pursuant to clause 15.4 a second community approval vote may be called.

Second Community Approval Vote

15.6 In order to obtain a quorum for a second attempt at a community approval vote under section 15 of this Land Code at least five percent (5%) of Eligible Voters **shall** participate.

Approval by Majority

15.7 A matter **shall** be considered approved at a second attempt at a community approval vote, if a majority of fifty percent plus one (50%+1) of the Eligible Voters cast a vote to approve the matter.

Third Community Approval Vote

15.8 If a quorum was not obtained pursuant to clause 15.7 a third community approval vote may be called without any quorum requirement.

Approval by Majority

15.9 A matter **shall** be considered approved at a third attempt at a community approval vote, if a majority of fifty percent plus one (50%+1) of the Eligible Voters cast a vote to approve a matter.

Vote quorums and majority votes

15.10 For greater certainty, in subsections 15.4, 15.7 and 15.9, a matter shall be approved if the number of Eligible Voters who vote satisfies the vote quorum, if any, and a majority of 50%+1 of the votes cast are in favor, and a matter shall be defeated if the number of Eligible Voters who vote satisfies the vote quorum, if any, and a majority of 50%+1 of the votes cast are opposed.

16. Ratification Votes

Community Approval by ratification vote

16.1 Community approval by ratification vote **shall** be obtained for an amendment to this Land Code.

Exceptions

16.2 A community approval by ratification vote is not required for:

- (a) an amendment to the description of Land of this Land Code;
- (b) revisions to this Land Code made pursuant to section 49; and
- (c) an amendment to, or renewal of, the Individual Agreement.

Ratification process

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

No verifier

16.4 A verifier is not required in any ratification vote.

Quorum

16.5 In order to obtain a quorum for a community approval by ratification vote under this Land Code at least twenty percent (20%) of Eligible Voters **shall** register.

Approval by majority

16.6 A matter **shall** be considered approved at a ratification vote if a majority of fifty percent plus one (50%+1) of the registered Eligible Voters cast a vote to approve the matter.

Second Ratification Vote

16.7 If a quorum was not obtained pursuant to clause 16.6 a second ratification vote may be called.

Second Attempt at Ratification Vote Quorum

16.8 In order to obtain a quorum for community approval for a second attempt at a ratification vote under this Land Code at least ten percent (10%) of Eligible Voters **shall** register.

Approval by majority

16.9 A matter **shall** be considered approved at a second ratification vote if a majority of fifty percent plus one (50%+1) of the registered Eligible Voters cast a vote in favour of the matter.

Policies Consultation, Approval and Ratification

16.10 For greater certainty, Council may make Land Laws or policies:

- (a) for Meetings of Members;
- (b) for community consultations;
- (c) for community approvals;
- (d) for ratification votes; and
- (e) respecting any other matter, that Council, by Resolution, declares to be subject to Part 3 of this Land Code.

Avoiding duplication of community processes

16.11 Where a matter or proposal includes features which require two or more community participation processes under Part 3 of this Land Code, community approval under section 15 shall be deemed to satisfy all requirements of section 13, and approval by ratification under section 16 shall be deemed to satisfy all requirements of sections 13 and 15.

Delivery of Written Notice

16.12 Provisions of this Land Code which require the delivery of written notice to Members by mail shall be implemented as follows:

- (a) written notice shall be delivered by mail to those Members for whom Magnetawan First Nation, having taken reasonable steps as determined by Council to locate Members, has obtained a valid mailing address; and

- (b) a single written notice sent by mail to multiple Members for whom Magnetawan First Nation has same mailing address shall be deemed to be notice to all such Members.

PART 4 PROTECTION OF LAND

17. Expropriation

Acquisition by Mutual Agreement

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

Rights and Interest that may be expropriated

- 17.2 An Interest or Licence in Magnetawan First Nation Land, and any building or other structure on that Land, may only be expropriated by Magnetawan First Nation in accordance with the *Framework Agreement* and any Land Law enacted for the purpose of establishing the rights and procedures for community expropriations.

Community purposes

- 17.3 A community expropriation **shall** only be made for necessary community works or other Magnetawan First Nation purposes, including but not limited to, a fire hall, sewage or water treatment facility, community center, public works, utilities, roads, schools, daycare facility, hospitals, health-care facility, and retirement home.

Expropriation Land Laws

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

Member notification

- 17.5 In the case of an expropriation of a Member's Interest in Magnetawan First Nation Land, the affected Member or Members **shall** receive notification of the expropriation within a reasonable time prior to the release of the public report referred to in clause 17.6.

Public report

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

Rights that may not be expropriated

17.7 In accordance with the *Framework Agreement*, any Interest of Canada or the province of Ontario in Magnetawan First Nation Land is not subject to expropriation by the Magnetawan First Nation.

Compensation for rights and Interests

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

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

Compensation calculations

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

Market value

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

Neutral evaluation to Resolve Disputes

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

Arbitration to resolve Disputes

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

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

18. Voluntary Exchange of Magnetawan First Nation Land

Conditions for a land exchange

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

No effect

18.2 A land exchange is of no effect unless it receives community approval in accordance with clause 14.2 of the *Framework Agreement*.

Land to be received

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

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

Negotiators

18.4 The person who will have authority to negotiate a land exchange agreement on behalf of the Magnetawan First Nation **shall** be designated by Resolution.

Additional land

18.5 The Magnetawan First Nation may negotiate to receive other compensation, such as money or other additional parcels of land, in addition to the parcel referred to in 18.1 which is intended to become a reserve. Such other parcels of land may be held by the Magnetawan First Nation in fee simple or some other manner.

Federal Consent

18.6 Before the Magnetawan First Nation concludes a land exchange agreement, it **shall** receive a written statement from Canada clearly stating that Canada:

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

Community notice

18.7 Once negotiations on the land exchange agreement are concluded, Council **shall** provide the following information to Eligible Voters at least forty two (42) days before the vote:

- (a) a description of the Magnetawan First Nation Land to be exchanged;
- (b) a description of the land to be received in the exchange;
- (c) a description of any other compensation to be exchanged;
- (d) a report of a certified land appraiser setting out that the conditions in clause 18.3 have been met;
- (e) a copy or summary of the exchange agreement; and
- (f) a copy of the consent referred to in clause 18.6.

Process of land exchange

18.8 The land exchange agreement *shall* provide that:

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

PART 5 ACCOUNTABILITY

19. Conflict of Interest or Appearance of Conflict of Interest

Application of rules

19.1 The rules in clause 19.2 apply to the following persons:

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

Duty to report and abstain

- 19.2 If there is any actual or apparent financial, familial or personal conflict of interest in the matter being dealt with, the person:
- (a) **shall** disclose the interest to Council, or the board, committee or other body as the case may be;
 - (b) **shall** not take part in any deliberations on that matter or vote on that matter; and
 - (c) **shall** remove themselves from the proceedings.

Apparent conflict of interest

- 19.3 A person to which this Part applies has an apparent conflict of interest if there is a reasonable perception, which a reasonably well informed person could properly have, that the person's ability to deliberate or decide on the matter **shall** have been affected by his or her private interest or the private interest of a member of his or her Immediate Family.

Inability to act

- 19.4 If the Board, committee or other body is unable to act due to a conflict of interest, the matter **shall** be referred to Council.

Meeting of Members

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

Specific Conflict situations

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

Elected Body

- 19.7 For greater certainty, Council or any other elected board, committee or body is not included under the rule set out in clause 19.6.

Disputes

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

Other laws

- 19.9 For greater certainty, Council may develop a policy or enact laws to further implement this section.

20. Financial Management

Application

20.1 This section applies only to financial matters relating to Magnetawan First Nation Land and natural resources.

Financial policies

20.2 Council **shall**, in accordance with this Land Code, develop and adopt financial management policies, including but not limited to:

- (a) regulating the receipt, management and expenditure of moneys, including transfer payments, all capital and revenue moneys received from Canada, all Land revenue, and moneys received from a grant or disposition of any Interests or Licences in relation to Magnetawan First Nation Land and natural resources;
- (b) managing financial records and accounts;
- (c) preparing financial statements and audits;
- (d) preparing and implementing Land management budgets and annual presentation of budgets;
- (e) determining the general investment strategy; contract notes, loans and other indebtedness; establishing fees, fines, charges and levies; and
- (f) establishing and maintaining confidentiality, records security and document retention.

Administrative structure

20.3 Council **shall** establish the administrative structure:

- (a) to implement all financial policies and procedures;
- (b) to oversee the day to day operational responsibilities for managing moneys related to Magnetawan First Nation Land and natural resources;
- (c) to ensure the accuracy of the accounting records;
- (d) to reconcile, review and approve bank statements;
- (e) to present the annual budgets to Members;
- (f) to present annually an audit of the financial statements to the Members; and
- (g) to prepare the annual report to Members.

21. Annual Report

Publish annual report

21.1 Council, on behalf of the Magnetawan First Nation, **shall** publish an annual report on Land issues.

Contents

21.2 The annual report will include:

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

22. Access to Information

Access

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

- (a) the register of Land Laws;
- (b) the auditor's report; and
- (c) the annual report on Land and natural resources.

Copies for Members

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

Access to records

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

PART 6 LAND AND NATURAL RESOURCES ADMINISTRATION

23. Land Staff

Administration

23.1 Council may delegate administrative authority to staff to carry out functions necessary for day to day administrative operations of Land and natural resources.

24. Lands Committee MAR 2 0 2015 C

Lands Committee established

24.1 The Lands Committee is hereby established for the following purposes:

- (a) assist with the development of the Land administration system;
- (b) advise Council and its staff on matters respecting Magnetawan First Nation Land;
- (c) recommend Land Laws, Resolutions, policies and practices respecting Magnetawan First Nation Land to Council;
- (d) consult with Members and non-Members on Magnetawan First Nation Land issues, and to make recommendations on the resolution of those issues to Council;
- (e) oversee community Meetings of Members, community approvals and ratification votes; and
- (f) perform such other duties as may be delegated or assigned by Resolution or Land Law under this Land Code.

Process to Implement Land Laws

24.2 The Lands Committee **shall**, within a reasonable time after this Land Code takes effect, establish a community process to develop and implement the Land Laws.

Development of Land related rules and procedures.

24.3 Within a reasonable time after this Land Code takes effect, the Lands Committee **shall**, in consultation with the community, ensure that Land Laws, rules and procedures, as may be appropriate, are developed that address the following matters:

- (a) environmental protection and assessment in relation to Magnetawan First Nation Land;
- (b) any outstanding issues on the resolution of disputes in relation to Magnetawan First Nation Land;
- (c) Land use planning and zoning;
- (d) section 39 respecting Matrimonial real property on reserve and whether any change should be made to the policy upon which that section is based; and
- (e) any other matter referred by Council.

Policies

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

Internal procedures

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

25. Implementation of the Lands Committee

First Lands Committee

25.1 Immediately upon the coming into effect of this Land Code, Council **shall** select a Lands Committee to serve for a term of up to three (3) years until a policy governing the Lands Committee comes into force.

Policy Governing Successors to the First Lands Committee

25.2 As soon as possible after the coming into force of this Land Code, Council, in consultation with the Lands Committee, **shall** develop a policy providing for community involvement in the selection, election, or appointment of Eligible Voters to serve on the Lands Committee, and dealing with such matters as number of members, composition, eligibility, Chair and Deputy Chair, functions of the Chair, term of office, remuneration, conditions of service, termination of membership, vacancies arising during term and such other matters as Council deems appropriate to the operation of the Lands Committee.

Delivery of Lands Committee's advice and recommendations

25.3 25.3 Where this Land Code requires the Lands Committee to provide advice or recommendations in relation to any procedure, matter or proposal:

- (a) Council may by resolution prescribe a deadline for the delivery of the advice or recommendations, and,
- (b) if the Lands Committee's advice or recommendations have not been delivered by the deadline, Council may by resolution either extend the deadline or elect to proceed without the advice or recommendations.

PART 7 INTERESTS AND LICENCES IN LAND

26. Revenue from Lands and Natural Resources

Determination of fees and rent

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

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

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

27. Registration of Interests and Licences

Enforcement of Interest and Licences

- 27.1 An Interest or Licence in Magnetawan First Nation Land created or granted after this Land Code takes effect is not enforceable unless it is registered in the First Nation Lands Register and the separate Magnetawan First Nation Lands Register.

Registration of Consent or approval

- 27.2 An instrument granting an Interest or Licence in Magnetawan First Nation Land that requires the consent of Council, or community approval, **shall** include a certified copy of the document indicating that the applicable consent or approval has been obtained.

Certificate required for registration

- 27.3 An instrument to which subsection 27.2 applies shall not be registered in the Magnetawan First Nation Lands Register unless it includes the certificate referred to in that subsection.

Duty to deposit

- 27.4 An original copy of the following instruments **shall** be deposited in the First Nation Lands Register and the separate Magnetawan First Nation Lands Register:
 - (a) any grant of an Interest or Licence in Magnetawan First Nation Land;
 - (b) any transfer or assignment of an Interest or Licence in Magnetawan First Nation Land;
 - (c) every Land use plan, subdivision plan or resource use plan; and
 - (d) this Land Code and any amendment to this Land Code.

28. Separate Magnetawan First Nation Lands Register

In force resolution of Council required

- 28.1 Notwithstanding subsection 50.2, the requirements of this Land Code relating to the separate Magnetawan First Nation Lands Register shall not come into force until a day to be fixed by resolution of Council.

Maintain a separate Magnetawan First Nation Register

- 28.2 Council **shall** establish and maintain a separate Magnetawan First Nation Lands Register and make Land Laws with respect to the Land Register and the effect of registering documents in the Register.

Duty to Deposit

- 28.3 Every person who receives an Interest or Licence in Magnetawan First Nation Land **shall** deposit an original copy of the relevant instrument in the separate Magnetawan First Nation Lands Register.

Priority

- 28.4 In the event of an inconsistency or a conflict between the separate Magnetawan First Nation and the First Nation Lands Register, the separate Magnetawan First Nation Lands Register prevails to the extent of the inconsistency or conflict.

29. Limits on Interests and Licences

All dispositions in writing

- 29.1 An Interest or Licence in Magnetawan First Nation Land may only be created, granted, disposed of, assigned or transferred by a written document made in accordance with this Land Code and any relevant Land Law.

Standards

- 29.2 Council may establish mandatory standards, criteria and forms for Interests and Licences in Magnetawan First Nation Land.

Contravention of Land Code

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

30. Existing Interests

Continuation of existing Interests and Licences

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

Voluntary exchange

- 30.2 For greater certainty, Interests or Licences previously issued under the *Indian Act* **shall** continue in effect after the coming into force of this Land Code.

Unregistered Interests

- 30.3 A policy **shall** be established as soon as practical after the coming into force of the Land Code to accommodate unregistered Interests.

31. New Interests and Licences

Authority to make dispositions

- 31.1 Subject to clause 15.1, Council may, on behalf of Magnetawan First Nation, grant;
- (a) Interests and Licences in Magnetawan First Nation Land, including certificates of possession, member allocations, leases, permits, easements and rights-of-ways; and
 - (b) Licences to take resources from Magnetawan First Nation Land, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances.

Conditional grant

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

Interests and Licences created for Commercial Purposes

- 31.3 An Interest or Licence which Council deems by resolution to be for Commercial Purposes may include exemptions from:
- (a) any or all of section 17 and the application of subsections 36.2, 36.3, 36.4 and 36.5 to any charge, pledge or mortgage of the Interest or Licence;
 - (b) in a lease of Magnetawan First Nation Land, subsection 89(1) of the Indian Act, as contemplated by subs. 38(3) of the First Nations Land Management Act; and
 - (c) subject to a community approval vote under section 15, any other provision of this Land Code.

Role of the Lands Committee

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

32. Interests of Non-Members

Grants to non-Members

- 32.1 A transfer or other disposition of all or any part of a lease or Licence in Magnetawan First Nation Land to a person who is not a Member **shall** not be effective unless and until it is confirmed by a Resolution of Council, adopted with the advice of the Lands Committee.

33. Certificates of Possession or Member Interests Application

- 33.1 For greater certainty, certificates of possession or Member Interests previously issued under the *Indian Act* **shall** continue to exist after the coming into force of this Land Code.

34. Allocation of Land to Members

Policies and procedures for allocation of Land

- 34.1 Subject to the provisions of this Land Code, Council in consultation with the Lands Committee **shall** establish Land Laws, policies and procedures for the allocation of Land to Members.

Allocation

- 34.2 Council may, in accordance with this Land Code:
- (a) allocate Land to Members; or
 - (b) issue a certificate of possession or certificate of entitlement to a Member for Land allocated to that Member.

No allocation of Land to non-Members

- 34.3 A person who is not a Member is not entitled to be allocated Land or to hold a permanent Interest in Magnetawan First Nation Land.

35. Transfer and Assignment of Interests

Transfer of Member Interest

- 35.1 A Member may transfer or assign his/her own Interest in Magnetawan First Nation Land to another Member without community approval or the consent of Council.

Consent of Council

- 35.2 There **shall** be no transfer or assignment of an interest in Magnetawan First Nation Land without the written consent of Council, except for:
- (a) transfers under clause 35.1;
 - (b) transfers that occur by operation of law, including transfers of estate by testamentary disposition; and
 - (c) transfers in accordance with the Matrimonial Real Property on Reserve Law enacted pursuant to section 39.

36. Limits on Mortgages and Seizures

Protections

- 36.1 In accordance with the *Framework Agreement*, the following provisions of the *Indian Act*, as amended from time to time, continue to apply to the Magnetawan First Nation Land:
- (a) section 29;
 - (b) section 87;

- (c) Sub-section 89(1); and
- (d) Sub-section 89(2).

Mortgage of Allocated Land

36.2 The Interest of a Member in First Nation Land may be subject to a mortgage or charge, but only to a Member or, the Magnetawan First Nation with the express written consent of Council.

Mortgages of leasehold Interests with consent

36.3 A leasehold Interest may be subject to charge or mortgage, but only with the express written consent of Council.

Time limit

36.4 The term of any charge or mortgage of a leasehold Interest **shall** not exceed the term of the lease.

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

Power of redemption

36.6 Subject to prior redemption by the lessee or Member, Council may redeem the charge or mortgage from the charger or mortgagor in possession and **shall** thereupon acquire all the rights and Interests of the charger or mortgagor and of the lessee or Member for all purposes after the date of the redemption.

Waiver of redemption

36.7 Council may, by Resolution, waive the requirements of 36.6 for any charge or mortgage of a leasehold interest or Licence.

37. Residency and Access Rights

37.1 The following persons have a right to reside on Magnetawan First Nation Land;

- (a) Members, who have been allocated Land by Council, and their Spouses and children;
- (b) Members with a registered Interest in Magnetawan First Nation Land;

- (c) any invitee of a Member referred to in clause (a) or (b);
- (d) lessees and permittees, in accordance with the provisions of the granting instrument; and
- (e) a person authorized in writing by the Magnetawan First Nation Council.

Right of Access

37.2 The following persons have a right of access to Magnetawan First Nation Land;

- (a) a lessee and his or her invitees;
- (b) a person granted a right of access under a permit;
- (c) Magnetawan First Nation Members and their Spouses and children; and
- (d) a person authorized in writing by Magnetawan First Nation Council.

Public access

37.3 Any person may have access to Magnetawan First Nation Land for any social or business purposes, if:

- (a) the person does not trespass on occupied Land and does not interfere with any Interest in Land;
- (b) the person complies with all applicable laws.

Use of Roads

37.4 Any person having a right of access to Magnetawan First Nation Land may have the right of access to Magnetawan First Nation public roads, subject to this Land Code and Land Laws.

Trespass

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

Civil remedies

37.6 All civil remedies for trespass are preserved.

38. Transfers on Death

Indian Act application

38.1 Until Magnetawan First Nation exercises jurisdiction in relation to wills and estates, the provision of the *Indian Act* dealing with wills and estates **shall** continue to apply with respect to Interests in Magnetawan First Nation Land.

Registered of transfer

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

Disposition of Interest

38.3 If no provision has been made by the deceased Member of the disposition of the Interest to another Member, the following rules apply:

- (a) the Minister or his or her delegate may make application to Council requesting that an instrument evidencing lawful possession or occupation of Magnetawan First Nation Land be issued; or
- (b) a Certificate of Possession or other instrument may be issued in accordance with procedures established by Council, or application of the Minister or his or her delegate, if the beneficiary or purchaser is a Member of the Magnetawan First Nation.

39. Matrimonial Real Property on Reserve Law

Development of rules and procedures

39.1 Council **shall** enact a matrimonial real property on reserve law providing rules and procedures applicable on the breakdown of a marriage, to:

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

Enactment of rules and procedures

39.2 The rules and procedures contained in the matrimonial real property on reserve law **shall** be developed by the Lands Committee in consultation with the community.

Enactment deadline

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

General principles

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

- (a) each Spouse should have an equal right to possession of their matrimonial home;
- (b) each Spouse should be entitled to an undivided half Interest in their matrimonial home, as a tenant in common;

- (c) the rules and procedures **shall** not discriminate on the basis of sex; and
- (d) only Members are entitled to hold a permanent Interest in Magnetawan First Nation Land or a charge against a permanent Interest in Magnetawan First Nation Land.

Immediate rules

39.5 In order that Members benefit immediately from the legislative authority of Council to address the issue of matrimonial real property under this Land Code, Council may enact an interim matrimonial real property on reserve law as soon as this Land Code comes into force.

Expiration

39.6 As this law would be enacted before the work of the Lands Committee and the community consultation is complete, the law will expire at the end of the twelve (12) month period after the coming into force of this Land Code, unless re-enacted, replaced or amended.

PART 8 DISPUTE RESOLUTION

40. Purpose

Intent

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

Purpose

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

41. Disputes

Dispute Prevention

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

Disputes Prior to Land Code

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

Decision of Council or Lands Committee

41.3 If a Member, or a non-Member with an Interest in Magnetawan First Nation Land, has a dispute with respect to a decision of Council or the Lands Committee, the person **shall** first attempt to

resolve that dispute with Council or the Lands Committee, before referring the dispute to the Panel.

Other dispute resolution methods

41.4 Nothing in this Part shall be construed to prevail over the dispute resolution provisions of a written agreement or to limit the ability of any person to reach agreement to settle a dispute without recourse to this Part.

Settlement Agreement

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

Contractual Agreement

41.6 A contractual agreement made under this Land Code may establish that the dispute resolution outlined in this Land Code and its Land Laws may be mandatory or may to some degree prescribe for alternate dispute resolution processes if there is consensual agreement by the parties involved in that agreement. The dispute resolution clause which forms part of a contract **shall** be treated as an agreement independent of the other terms of the contract.

Variation of Rules

41.7 The parties to a dispute to which these rules apply may to some degree, modify, vary or amend these rules by consensual agreement in writing, and notify the Panel in writing.

Civil Remedies

41.8 Notwithstanding clause 41.6 and 41.7, nothing in this Part **shall** be construed to prevent a party to a dispute from, at any stage of dispute resolution, applying to have the dispute resolved in a court of competent jurisdiction.

Challenge to Validity of Law

41.9 For greater certainty, nothing in this Part **shall** be construed to prevent a party to a dispute from challenging the validity of a Land Law, but such a challenge may be heard only in a court of competent jurisdiction.

42. Processes

Staged Processes

42.1 Magnetawan First Nation intends that a dispute in relation to Magnetawan First Nation Land, except as otherwise provided, may progress through the following stages provided for in this Part:

- (a) negotiation;
- (b) facilitated discussions;
- (c) mediation; and

- (d) final arbitration by the Dispute Resolution Panel.

Procedure to File a Dispute

- 42.2 A person who wishes to resolve a dispute with another person or Magnetawan First Nation in relation to the use or occupation of Magnetawan First Nation Land may file a written notice of dispute setting out:
- (a) the nature of the dispute;
 - (b) a statement outlining the facts and supporting arguments of the dispute claim; and
 - (c) the relief that is sought.

Termination of Processes

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

Notice of Termination

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

Dispute resolution not available

- 42.5 Dispute resolution is not available under this Part for disputes in relation to:
- (a) administration or distribution of an estate;
 - (b) decisions relating to housing allocations;
 - (c) decisions of Council to grant or refuse to grant an Interest or Licence in Magnetawan First Nation Land to a non-Member;
 - (d) decisions on expropriation under section 17 of this Land Code: and
 - (e) prosecution or conviction of an offence under a Land Law or under criminal law.

Duty of Fairness

- 42.6 All persons involved in a dispute under this Part **shall** be:

- (a) treated fairly;
- (b) given a full opportunity to present their case; and
- (c) given reasons for a decision made under this Part.

Rules and Procedures

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

- (a) negotiations, facilitated discussions, mediations and arbitrations;
- (b) terms of office for panelists;
- (c) remuneration of facilitators, mediators, arbitrators, expert advisors, professionals or other persons retained to assist in the resolution of disputes under this Part;
- (d) code of conduct for facilitators, mediators, arbitrators, panelists, expert advisors, professionals or other persons retained to assist in the resolution of disputes under this Part;
- (e) disclosure and confidentiality;
- (f) imposition of time limitations for submitting a notice of dispute and referring a matter or dispute to the Panel;
- (g) implementing recommendations of the Dispute Resolution Panel made under clause 46.2; and
- (h) any other matter necessary to give effect to this Part.

Waiver of Liability

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

43. Roster Panel Established

Appointment to Roster Panel

43.1 The Roster Panel **shall** be composed of a maximum of twenty (20) panelists.

Ineligible

43.2 Notwithstanding section 19, in order to avoid conflict of interest, no Council member, or employee of Magnetawan First Nation or person already serving on another board, body, or committee related to Magnetawan First Nation Land **shall** sit on the Roster Panel.

Representation

43.3 Council **shall** appoint the Roster panelists, and **shall** ensure that, where possible, the Roster panelists represent the various elements of the community.

Rules of Roster Panel

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

44. Impartiality of the Dispute Resolution Panel

Duty to Act Impartially

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

Offence

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

Rejection of Application

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

Rules of Conduct for Parties to a Dispute

44.4 The Roster Panel **shall** establish rules of conduct for the parties to a dispute.

45. Arbitration by the Dispute Resolution Panel

Disputes

45.1 Any matter or dispute related to Magnetawan First Nation Land **shall** be submitted to the Lands Department but that such matter or dispute **shall** then be referred to the Roster Panel for resolution.

Panel of Three Chosen From Roster Panel

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

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

Panel Established

45.3 The Panel is hereby established with jurisdiction to resolve disputes in relation to Magnetawan First Nation Land. For greater certainty, disputes outlined in clause 42.5 **shall** not be heard by the Panel.

46. Powers of the Dispute Resolution Panel

Power of the Panel

46.1 The Panel may, after hearing a dispute:

- (a) confirm or reverse the decision, in whole or in part;
- (b) substitute its own decision for the decision in dispute;
- (c) direct that an action be taken or ceased;
- (d) refer the matter or dispute back for a new decision; or
- (e) make an order to give effect to its decision, including any necessary order for the survey of an Interest in Magnetawan First Nation Land, the registration of an Interest in Magnetawan First Nation Land, and the allocation of the costs of any incidental measures to be taken to give effect to such an order.

Recommendations by Panel

46.2 In addition to making a determination under clause 46.1, the Panel may:

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

Interim Decisions

46.3 The Panel may, in relation to a dispute over which it has jurisdiction under this Part, make any interim order it considers to be necessary as a matter of urgency to preserve the rights of the parties to the dispute or to preserve or protect an Interest in Magnetawan First Nation Land.

Professional Services

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

Written Decisions

46.5 Decisions of the Panel **shall** be in writing, signed by the person chairing the Panel or by an officer designated by the Panel to do so. Where requested, the written decision **shall** be provided to a party to the proceeding within fourteen (14) days after the date of the decision.

Appeal of Decision

46.6 A decision of the Panel is binding but, subject to review by the Federal Court (Trial Division).

PART 9 OTHER MATTERS

47. Liability

Liability Coverage

47.1 Council **shall** arrange, maintain and pay insurance coverage for its officers and employees engaged in carrying out any matter related to Magnetawan First Nation Land to indemnify them against personal liability arising from the performance of those duties.

Extent of coverage

47.2 The extent of the insurance coverage **shall** be determined by Council.

48. Offences

Application of the *Criminal Code*

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

Fines & Imprisonment

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

Penalties in Laws

48.3 A Magnetawan First Nation Land Law may provide for a penalty which is different than the penalties referred to in clause 48.1 and 48.2.

49. Revisions to Land Code

Revisions

- 49.1 A ratification vote is not required for revisions made to this Land Code that do not change the substance of this Land Code. Council may, from time to time, arrange and revise this Land Code. Revisions may be made as a result of, but are not limited to:
- (a) an amendment of the description of Magnetawan First Nation Land subject to the Land Code and Individual Agreement;
 - (b) a reference in this Land Code to a clause in another act or document that was amended and resulted in clause renumbering;
 - (c) a reference in this Land Code to an Act or parts thereof that have expired, have been repealed or suspended;
 - (d) changes in this Land Code as are required to reconcile seeming inconsistencies with other acts;
 - (e) minor improvements in the language as may be required to bring out more clearly the intention of the Magnetawan First Nation without changing the substance of the Land Code; and
 - (f) correct editing, grammatical or typographical errors.

50. Commencement

Preconditions

- 50.1 This Land Code **shall** take effect if the community approves this Land Code and the Individual Agreement with Canada and this Land Code has been certified by the verifier pursuant to the *Framework Agreement*.

Commencement date

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

APPENDIX "A"

Description of the Magnetawan First Nation Land as listed as ANNEX "G" in the Individual Agreement on First Nation Land Management between Magnetawan First Nation and Canada.

ANNEX "G" DESCRIPTION OF MAGNETAWAN FIRST NATION LAND

Magnetawan Indian Reserve No.

Land Description of the Extent of Reserve Lands that will be subject to the Land Code of the Magnetawan First Nation under the First Nations Land Management Act.

Reserve Lands within the Province of Ontario, Canada, more particularly described as:

FIRSTLY:

All of Magnetawan Indian Reserve No. 1 as shown on a plan recorded in the Canada Lands Survey Records (CLSR) as number 102364;

Save and excepting:

- 1) all those lands described in Letters Patent 16281 and as shown on Plan RR940B CLSR;
- 2) all those lands described in Letters Patent 16918 and as shown on Plan 1304 CLSR;
- 3) all those lands described as a 66 foot road right-of-way and as shown on Plan RD2629A CLSR;
- 4) all those lands described as Portions "A" and "B" on Plan 4639 CLSR;
- 5) all those lands bordered in red as shown on Plan 51407 CLSR;
- 6) all those lands bordered in red as shown on Plan 51725 CLSR;

SECONDLY:

Broken Lot 21 North of the Magnetawan River, Concession 6;

Lot 21, Broken Lots 22 to 25, Concession 7;

Lots 21 to 25, Broken Lots 26 to 28, Concession 8; MAR 2 0 2015 Lots 21 to 27, Broken Lot 28, Concession 9;

Lots 21 to 28, Broken Lots 29 to 31, Concession 10;

Part of the Road Allowance between Concessions 6 and 7 adjoining Lots 21 and 22;

Part of the Road Allowance between Concessions 8 and 9 adjoining Lots 21 to 28; Part of the Road Allowance between Lots 25 and 26 through Concessions 7 to 10; Part of the Road Allowance between Lots 30 and 31, Concession 10;

Part of the Shore Road Allowance adjoining the Magnetawan River;

Geographic Township of Wallbridge, District of Parry Sound, all as shown on Plan 887 CLSR;

The herein described land containing 4721 hectares (11,667 acres).