



LOWER NICOLA INDIAN BAND

LAND CODE

Dated for Reference April 1, 2016

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COPY THIS 8th DAY
OF April 20 16
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BARRISTER & SOLICITOR
A NOTARY PUBLIC IN
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PREAMBLE

WHEREAS since time immemorial, the members of the Lower Nicola Indian Band have continuously and without interruption occupied our territory and exercised Aboriginal title to our traditional lands;

AND WHEREAS our customs, laws, traditions and teachings bind us to the land;

AND WHEREAS our relationship with the land governs our responsibility to respect, monitor, maintain, manage, protect and benefit from the land;

AND WHEREAS for countless generations we have exercised governance authority over the land, the waters, the salmon, the animals and all other resources of the land;

AND WHEREAS the land is a living entity that gave life to our ancestors and will continue to support our community now and into the future;

AND WHEREAS the Lower Nicola Indian Band aspires to move ahead as an organized, highly- motivated, determined and self-reliant nation;

AND WHEREAS the Lower Nicola Indian Band is comprised of proud, united people whose purpose is to establish a future that will ensure a high quality of life while living in harmony with the environment;

AND WHEREAS the Lower Nicola Indian Band recognizes the wealth and opportunity in our lands and will continue to pursue responsible economic development on our lands to support our community now and into the future;

AND WHEREAS Nlaka'pamux traditions and cultural beliefs are the driving force of our success and destiny; and

AND WHEREAS the Lower Nicola Indian Band no longer wants our lands and resources to be managed by Canada under the *Indian Act*, but instead wants to manage our lands and resources under our own land code;

AND WHEREAS the Lower Nicola Indian Band membership has chosen to manage its lands and resources under the *First Nations Land Management Act*;

NOW THEREFORE, the Lower Nicola Indian Band Land Code is hereby enacted as the fundamental land law of the Lower Nicola Indian Band.

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PART 1 - PRELIMINARY MATTERS

1. Title

1.1 The title of this enactment is the *Lower Nicola Indian Band Land Code*.

2. Interpretation

Definitions

2.1 The following definitions apply in this Land Code:

"Allotment" means:

- a) lawful possession of LNIB allotted to a Member by the Council and approved by the Minister pursuant to section 20(1) of the *Indian Act*,
- b) the Interest of a Member held pursuant to a location ticket issued under section 20(3) of the *Indian Act*, or
- c) equivalent tenure issued under this Land Code;

"Budget" means a Lands Management Budget or supplementary budget as described in Part 7 [*Accountability*] and section 38 [*Financial Matters*] of this Land Code;

"Certificate of Possession" or **"CP"** means a certificate of possession in respect of LNIB Land issued prior to the coming into force of this Land Code under section 20(2) of the *Indian Act* or a certificate of possession in respect of LNIB Land issued after the coming into force of this Land Code under section 20 [*Allotment of Land*] of this Land Code as evidence of an Allotment;

"CP Holder" means the holder of an Allotment, whether or not a Certificate of Possession has been issued;

"CP Land" means LNIB Land that is subject to an Allotment, whether or not a Certificate of Possession has been issued.

"Common-law Marriage" means a relationship between two people not married to each other but who have lived together as spouses for a period of not less than twelve consecutive months;

"Community Approval" means approval by Eligible Voters of a Law, decision, or matter under section 12 [*Community Approval*];

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"Community Engagement" means the process of involving the community in accordance with Part 3 [*Community Engagement and Approvals*] through one or more Meetings of Members or other means of communication through which the Members may provide comments and feedback to Council, for consideration by Council in its sole discretion;

"Community Purpose" means a public purpose or public work intended to provide a benefit for the Members, LNIB or Persons who reside on or operate a business on LNIB Land and shall include but shall not be limited to transportation and utility corridors and requirements related to transportation and utility corridors, public works, cemeteries, schools, day-care facilities, administrative buildings and facilities, seniors' housing facilities, hospitals, fire halls, sewage and water treatment facilities, playgrounds, community centres and other similar facilities and the protection of heritage sites;

"Council" means the Chief and Councillors of LNIB or any successor elected government of LNIB;

"Easement" means a non-exclusive interest in LNIB Land granted under this Land Code or, prior to the date of this Land Code, under the Indian Act, giving one person (the grantee) the right to use the land of another (the grantor) for an easement or a right of way, or to provide utility or other services to the land of the grantor or other lands, and

- a) is limited only to such interest as is necessary to give effect to the easement granted, and
- b) despite any common law rule to the contrary, does not require that there be a dominant and a servient tenement;

"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 18 years on or before the day of the vote;

"Environmental Audit" means an environmental assessment report conducted in accordance with the standards of either the *Canadian Environmental Assessment Act*, 2012, S.C. 2012, c. 19, s. 52 and regulations thereunder, as amended or restated from time to time, or the *British Columbia Environmental Assessment Act*, SBC 2002, Chapter 43, whichever imposes the more stringent assessment standards in the opinion of the Lands Management Advisory Committee;

"Environmental Consultant" means a reputable firm of environmental consultants, qualified to do business in British Columbia and qualified to conduct investigation and remediation of soil, water and vapour contamination, employing consultants qualified as professional engineers registered and in

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good standing with the Association of Professional Engineers and Geoscientists of British Columbia and maintaining professional liability and errors and omissions insurance in the amount of not less than \$1 million per occurrence;

"Financial Administration Law" means the Lower Nicola Indian Band *Financial Administration Law, 2014* as amended or replaced from time to time;

"Framework Agreement" means the Framework Agreement on First Nation Land Management entered into between the Minister of Aboriginal Affairs and Northern Development Canada and 14 First Nations on February 12, 1996, as amended from time to time;

"General Zoning Law" means the general zoning law of LNIB, as amended from time to time. The General Zoning Law must comply with the Land Use Plan and must be approved by Community Approval followed by approval by Council by Resolution. The General Zoning Law may be amended from time to time:

- (a) to approve a use of LNIB Land that is contrary to the Land Use Plan, by Community Approval followed by approval by Council by Resolution; or
- (b) in all other cases, by Council by Resolution following Community Engagement to gather input on the proposed amendment for Council's consideration, in its sole discretion;

"Immediate Relative", in respect of an individual, means the individual's parent, sister, brother, child (natural, or adopted pursuant to either the laws of the Province of British Columbia or Nlaka'pamux tradition) or Spouse;

"Individual Agreement" means the Individual First Nation Agreement made between the Lower Nicola Indian Band and Canada in accordance with clause 6.1 of the Framework Agreement.

"Interest" means an interest in LNIB Land, and includes an Allotment, Leasehold, and Easement, but for greater certainty does not include title to the land;

"LNIB" means the Lower Nicola Indian Band

"LNIB Community Land" means any LNIB Land in which all Members have a common interest but does not include LNIB Land subject to an Allotment;

"LNIB Community Ratification Process" means the Lower Nicola Indian Band Community Ratification Process approved by Council for the ratification of this Land Code pursuant to the Framework Agreement and the *First Nations Land Management Act*;

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"LNIB Land" means any portion of a reserve of LNIB that is subject to this Land Code;

"Land Code" means this *Lower Nicola Indian Band Land Code*;

"Lands Department" means the department of LNIB that administers the day to day operation of LNIB Land and this Land Code;

"Lands Management Advisory Committee" means the Lands Management Advisory Committee established under this Land Code;

"Lands Manager" means the person employed or otherwise engaged by LNIB to oversee the day to day operations of the Lands Department and the administration of this Land Code;

"Land Use Plan" means at any time the then current land use plan for LNIB Land duly approved from time to time by Ratification Vote, as may be amended by Council following Community Engagement to gather input on the proposed amendment for Council's consideration, in its sole discretion;

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

"Lease" means a written contract setting out the terms and conditions of a Leasehold;

"Leasehold" means an Interest in LNIB Land granted under this Land Code or, prior to the date this Land Code comes into force, under the *Indian Act*, including a Sub-Lease, giving a Person the exclusive right of use and possession of the lands, upon agreed conditions, for a specified time, calculated by including any renewal or extension period;

"Licence" means a licence, permit or other permission granted under this Land Code, or a licence or permit issued pursuant to the *Indian Act* prior to the effective date of this Land Code, to use, develop, or extract specified Natural Resources from, or otherwise have non-exclusive use of, LNIB Land but which does not grant an Interest in, or possession to, LNIB Land.

"Majority" means greater than 50%;

"Meeting of Members" means a meeting of the Members under section 10 [*Meetings of Members*].

"Member" means an individual whose name appears on the Lower Nicola Indian Band Membership List;

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"Mortgage" means a charge on, or encumbrance of, an Interest in LNIB Land for the purpose of securing a debt;

"Natural Resources" means any materials or substances on, under, or in LNIB Land which, when removed, have economic or other value;

"Person" means an individual, corporation, body corporate, partnership, joint venture, association, trust, or unincorporated organization of any trustee, executor, administrator, or other legal representative;

"Panel" means an individual or body established pursuant to a Dispute Resolution Law enacted under section 43.2 [*Dispute Resolution Law*];

"Ratification Vote" means a vote of Eligible Voters under section 13 [*Ratification Process for this Land Code*];

"Register" means the register of LNIB Land established by Canada under clause 51.2 of the Framework Agreement and maintained in the First Nations Land Registry established under the *First Nations Land Registry Regulations*;

"Registered Voter" has the same meaning as in the LNIB Community Ratification Process;

"Resolution" means a Resolution of Council passed under this Land Code;

"Spouse" means an individual who is married to another individual, whether by a traditional, religious or civil ceremony, and includes a Person who is cohabiting in a Common-law Marriage;

"Sub-Lease" means a Lease executed by lessee in LNIB Land to a third person, conveying the same interest that the lessee enjoys in all or a portion of a parcel, but for a shorter term than that which the lessee holds; and

"Verifier" means a verifier appointed in accordance with section 8.1 of the Framework Agreement.

Interpretation

2.2 In this Land Code:

- (a) The use of the word "shall," "will" or "must" denotes an obligation that, unless this Land Code provides to the contrary, must be carried out as soon as practicable after this Land Code comes into effect or in the event that gives rise to the obligation;

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- (b) Where the time limited for doing an act expires or falls on a Saturday or Sunday or a federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday;
- (c) Where the time limited for doing an act in the Lower Nicola Indian Band 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;
- (d) Where there is a reference to a number of days or a number of days between the two events, in calculating that number of days, the days on which the events happen are excluded;
- (e) Unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of plural includes the singular;
- (f) Unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine;
- (g) Unless it is otherwise clear from the context, "including" means "including, but not limited to," and "includes" means "includes, but not limited to"; and
- (h) The headings of parts and sections in this Land Code have been inserted as a matter of convenience and for reference only and in no way define or limit any of its provisions.

Paramountcy

- 2.3 Subject to section 38.3 [*Paramountcy*], if there is inconsistency or conflict between this Land Code and any other enactment of LNIB, this Land Code prevails to the extent of the inconsistency; and if there is an inconsistency or conflict between this Land Code and the Framework Agreement, the Framework Agreement prevails to the extent of the inconsistency or conflict.

Culture and traditions

- 2.4 The structures, organizations, laws and procedures established by or under this Land Code shall be interpreted in accordance with the culture, traditions and customs of LNIB, unless otherwise provided.

Non-abrogation

- 2.5 This Land Code does not abolish, repeal or otherwise abrogate, or detract, diminish or otherwise derogate from, any Aboriginal, treaty or other rights of

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freedoms that pertain now or in the future to LNIB or its Members, including, without limitation, rights to land, water, air and Natural Resources.

Fair interpretation

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

Fiduciary Relationship

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

Lands and Interests affected

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

- (a) the water, beds underlying water, riparian rights, air rights, minerals and subsurface resources, and all other renewable and non-renewable Natural Resources in and of that land, water or air to the extent that these are under the jurisdiction of Canada or LNIB; and
- (b) all the Interests and Licences granted by Her Majesty in right of Canada listed in the Individual Agreement.

3. Authority to Govern

Aboriginal Rights and Title

3.1 LNIB has never ceded, surrendered, or in any way relinquished aboriginal title and will continue to assert its interests and exercise its aboriginal rights over its traditional territory.

Protection of Aboriginal Rights

3.2 LNIB is committed to protecting the aboriginal rights of the LNIB and its Members.

Origin of authority

3.3 By enacting this Land Code, LNIB is giving effect to its aboriginal title to that portion of its territories comprised of LNIB Land.

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Flow of authority

- 3.4 The authority of LNIB to govern its lands and resources flows from our aboriginal title and our inherent right of self-government.

4. Purpose

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

Ratification

- 4.2 LNIB has executed the Framework Agreement that will be ratified and confirmed by LNIB when this Land Code comes into effect.

5. Description of LNIB Land

LNIB Land

- 5.1 The LNIB Land that is subject to this Land Code consists of:

- (a) Hamilton Creek IR #7;
- (b) Joeyaska IR#2;
- (c) Logan's IR #6;
- (d) Nicola Mameet IR#1;
- (e) Pipeul IR#3;
- (f) Speous IR#8;
- (g) Zoht IR#4;
- (h) Zoht IR#5; and
- (i) Zoht IR#14

as those lands are described in the Land Descriptions referred to in Annex "G" of the Individual Agreement.

Excluded Lands

- 5.2 The lands described as follows are excluded from the application of this Land Code:

- (a) Hihium Lake IR#6; and
- (b) those lands identified in Part B of Section 2 of each of the Land Descriptions referred to in Annex "G" of the Individual Agreement, being lands excluded pursuant to section 7 or 7.1 of the *First Nations Land Management Act*.

- 5.3 The excluded lands referred to in section 5.2 [*Excluded Lands*] may be made subject to this Land Code in accordance with section 5.6 [*Inclusion of land or Interest*] on a recommendation of the Lands Management Advisory Committee



after an Environmental Audit prepared by an Environmental Consultant stating that it is free of environmental hazard and safe for community use.

Additional lands

- 5.4 The following lands may be made subject to this Land Code in accordance with section 5.6 [*Inclusion of land or Interest*] if they are, or become, reserve lands and the following applicable conditions are met:
- (a) any lands owned jointly by LNIB and another First Nation or other First Nations, when all the First Nations agree upon a joint management scheme for those lands; and
 - (b) any land or Interest acquired by LNIB after this Land Code comes into effect, whether by land claim, purchase or other process, after an Environmental Audit prepared by an Environmental Consultant expresses the view that the land does not pose a significant risk to human health or the environment.

Land exchange

- 5.5 For greater certainty, section 5.4 [*Additional lands*] applies to land acquired by land exchange in accordance with section 30 [*Voluntary Land Exchanges and Protections*].

Inclusion of land or Interest

- 5.6 When the relevant conditions in sections 5.2 [*Excluded Lands*] and 5.4 [*Additional lands*], whichever is applicable, are met, Council shall call a Meeting of Members under section 10 [*Meeting of Members*] and, following Community Approval, may by passing a Resolution declare the land or Interest to be subject to this Land Code.

PART 2 - LNIB LEGISLATION

6. Law-Making Powers

Council may make Laws

- 6.1 Council may, in accordance with this Land Code and subject to any applicable Community Approval requirements set out in section 12 [*Community Approval*], make Laws in relation to LNIB Land.

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Examples of Laws

- 6.2 For greater certainty and without limiting the generality of 6.1 [*Council May Make Laws*] Council may make Laws relating to:
- (a) the development, conservation, protection, management, use and possession of LNIB Land;
 - (b) Interests in, and Licences in relation to, LNIB Land;
 - (c) Zoning;
 - (d) Land Use Planning, or giving effect to a Land Use Plan;
 - (e) the purchase, acquisition or sale of LNIB Land in accordance with the Act and this Land Code;
 - (f) regulation, control, authorization and prohibition of residency, access, occupation and development of LNIB Land and Interests therein;
 - (g) to provide for the rights and responsibilities of landlords and tenants;
 - (h) environmental assessment and environmental protection;
 - (i) expropriation;
 - (j) setting aside and regulation of heritage lands and sacred sites;
 - (k) Community Approval and Ratification Votes under this Land Code
 - (l) regulation, licensing and control of businesses on LNIB Land;
 - (m) regulation of construction and standards for buildings, structures and facilities on LNIB Land;
 - (n) fees or charges to be paid to LNIB for the granting or transfer of Interests in LNIB Community Land;
 - (o) fees, stumpage or royalties to be paid to LNIB for the removal or extraction of Natural Resources from LNIB Land, including for removal or extraction of minerals, gravels and timber from LNIB Land, including CP Land;

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- (p) bonds, irrevocable letters of credit, or other security to be provided by a Person developing any portion of LNIB Land if such security is required to protect the interest of LNIB or to protect the integrity of lands, structures or infrastructures;
- (q) provision of local services and the imposition of user charges including development cost charges or their equivalent;
- (r) authorization and regulation of development of land and subdivisions including requirements for park dedications or grants in lieu of park dedication and requirements for community housing land or unit dedication or grants in lieu of housing dedications;
- (s) the conduct of surveys of lands or interests;
- (t) setting aside, designation, regulation or management of parks, parkland, trails, greenspace, and recreational lands;
- (u) removal and punishment of Persons trespassing upon LNIB Land or frequenting LNIB Land for prohibited purposes;
- (v) public nuisance and private nuisance;
- (w) regulations of sanitary conditions and the provision of sanitary services in private premises and public places;
- (x) construction and maintenance of boundary and internal fences;
- (y) construction, maintenance and management of roads, water courses, water diversion, storm drains, bridges, ditches and other local and public works;
- (z) regulation of traffic and transportation;
- (aa) procedures that apply to the transfer, by testamentary disposition or succession, of any interest or right in LNIB Land;
- (bb) hunting, fishing, and management and protection of fish, wildlife and their habitat on LNIB Land;
- (cc) management and control of domestic and agricultural animals on LNIB Land;
- (dd) use and storage of fireworks, firearms, weapons and hazardous materials or substance;

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- (ee) environmental assessment and protection;
- (ff) enforcement of LNIB Laws;
- (gg) provision of services for the resolution, outside the courts, of disputes in relation to LNIB Land;
- (hh) any matter necessary to give effect to this Land Code; and
- (ii) any matter necessary or ancillary to Laws respecting LNIB Land.

Amendments to Laws

6.3 A Law may be repealed or amended following the procedure for making Laws set out in this Part, unless the Law to be repealed or amended sets out a different procedure, in which case the procedure set out in the Law applies.

7. Law-Making Procedure

Proposing Laws

- 7.1 A proposal for a Law may be introduced at a duly convened meeting of Council by:
- (a) the Chief or a Councillor;
 - (b) a representative of the Lands Management Advisory Committee, or other body or authority composed of Members that may be authorized by Council to do so;
 - (c) the Lands Manager; or
 - (d) a Petition presented to Council signed by at least 20 per cent of Eligible Voters, setting out the request for development of a Law addressing a specific subject matter or issue.

Written proposal

- 7.2 A proposal for a Law in 7.1 [*Proposing Laws*] shall be in writing and shall contain:
- (a) a proposed title;
 - (b) a brief description of the subject matter to be addressed;
 - (c) a reason why the proposed Law is necessary;
 - (d) a draft outline of the Law; and

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- (e) the section or sections of the Land Code which authorize the proposed Law.

Tabling and Posting of Proposed Laws

7.3 A proposed Law shall be:

- (a) tabled at a meeting of Council at least 21 days before the proposed Law is voted upon by Council;
- (b) deposited with the Chair of the Lands Management Advisory Committee at least 21 days before the proposed Law is voted upon by Council; and
- (c) posted in public places on LNIB Land at least 21 days before the proposed Law is voted upon by Council.

Community Input to be considered

7.4 Council shall consider any input received from the Members through Community Engagement in respect of a proposed Law, and may, in its sole discretion, incorporate such input before enacting the Law pursuant to 7.7 [Enactment of Law].

Urgent matters

7.5 Council may enact a Law without the preliminary steps required under section 7.3 [Tabling and Posting of Proposed Laws] if Council is of the opinion that the Law is needed urgently to protect LNIB Land, Members, or public health and safety.

7.6 A Law enacted under section 7.5 [Urgent matters] expires and has no force and effect 45 days after its enactment unless it is re-enacted in accordance with section 7.3 [Tabling and Posting of Proposed Laws].

Enactment of Law

7.7 Subject to the applicable requirements of Part 3 with respect to Community Engagement and Community Approval, a Law is enacted if it is approved by a Majority of Council by Resolution at a duly convened meeting of Council open to the Members.

Certification of Laws

7.8 The original copy of any Law, amendment of a Law or Resolution concerning LNIB Land shall be signed by the members of Council present at the meeting at which it was enacted.

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8. Publication of Laws

Publication

- 8.1 All Laws shall be published in the minutes of Council.
- 8.2 Within seven days after a Law is enacted, Council shall post a copy of the Law in the administrative offices of LNIB and on the LNIB website; however, failure to post a Law within seven days shall not invalidate the Law.
- 8.3 Council shall cause to be kept, at the administrative offices of LNIB, a register of the original copy of all Laws and Resolutions, including Laws and Resolutions that have been repealed or are no longer in force.

Copies for any Person

- 8.4 Any Person may, during regular business hours at the LNIB administration office, have reasonable access to the register of Laws and may obtain a copy of a Law or Resolution on payment of such reasonable fee as may be set by Council or a body designated by Council.

9. Commencement of Laws

Laws coming into effect

- 9.1 A Law comes into effect on the date of its enactment or such later date as may be specified by the Law.

PART 3 - COMMUNITY ENGAGEMENT AND APPROVALS

10. Meetings of Members

Meeting of Members prior to enactment of Laws

- 10.1 Prior to enacting a Law under section 7.7 [*Enactment of Law*], Council shall convene a Meeting of Members to receive input from Members, and, where required under this Land Code, to obtain Community Approval.

Council may convene Meetings of Members

- 10.2 At any time and from time to time, Council may convene a Meeting of Members to discuss or receive input on matters or issues arising under this Land Code.

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11. Procedure at a Meeting of Members

Quorum

- 11.1 Except for the Meeting of Members at which Community Approval or other decision of the Eligible Voters is required, there shall be no requirement for a quorum.
- 11.2 Quorum for a Meeting of Members at which Community Approval or other decision of the Eligible Voters is required is 10% of the Eligible Voters.

Voting

- 11.3 Voting at a Meeting of Members shall proceed by a show of hands unless Council directs a different procedure by Resolution.

Notice of meeting

- 11.4 The Council shall 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 and a copy of any draft Law to be voted on after the meeting.

Manner of notice

- 11.5 Written notice of a Meeting of Members held for the purpose of Community Engagement shall be given to the Members by:
- (a) posting the notice in public places on LNIB Land and on the LNIB website at least 21 days before the meeting;
 - (b) publishing the notice in a community newsletter or local newspaper at least 10 working days before the meeting; and
 - (c) such additional methods as Council may consider appropriate in the circumstances.

Additional Notice for Community Approval Meetings

- 11.6 In addition to the requirements of section 11.5, [Manner of Notice] notice of a meeting at which Community Approval will be sought shall be given to the Members by mailing or e-mailing the notice to Members for whom the Lands Management Advisory Committee has a current mailing or e-mail addresses at least 21 days before the meeting;

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Rights of Members and Eligible Voters

- 11.7 Every Member has a right to participate and provide input at a Meeting of Members held for the purposes of Community Engagement.
- 11.8 Every Eligible Voter is eligible to vote at a Meeting of Members held for the purpose of obtaining Community Approval.

Participation by Non-Members

- 11.9 An individual other than a Member may attend a Meeting of Members only with written permission or invitation of Council or the Lands Management Advisory Committee.

Other meetings

- 11.10 Council may schedule more than one Meeting of Members to discuss and decide a matter that requires a Meeting of Members, provided that any vote taken at a Meeting of Members will not be accumulated with any vote taken at a subsequent Meeting of Members.

Other Laws

- 11.11 Council may make Laws or approve policies respecting Meetings of Members provided that such Laws or policies are consistent with this Land Code.

12. Community Approval

Community Approval at a Meeting of Members

- 12.1 Where Community Approval is required under this Land Code, such Community Approval shall be sought at a Meeting of Members convened in accordance with this Part.

Council may require a Ratification Vote

- 12.2 Notwithstanding section 12.1 [*Community Approval at a Meeting of Members*], Council may by Resolution require, in respect of any particular Law or decision, that Community Approval be sought by way of a Ratification Vote.

Community Approval

- 12.3 Community Approval must be obtained for the following:
- (a) amendment of this Land Code;
 - (b) a land use plan or amendment to a land use plan;

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- (c) any development on a heritage site designated in a land use plan;
- (d) any voluntary exchange of LNIB Land;
- (e) any amendment to the Individual Agreement that significantly reduces the amount of funding provided by Canada;
- (f) A Law under section 29 [*Heritage Sites*];
- (g) a Law enabling development or loss of protection of a heritage site relating to any cemeteries;
- (h) a Spousal Property Law under section 26 [*Spousal Property Law*]; and
- (i) any other Law or decision that Council, by Resolution, declares to be subject to this section.

Individual Agreement

- 12.4 For greater certainty, an amendment to, or renewal of, the Individual Agreement will not require Community Approval, unless the amendment or renewal significantly reduces the amount of funding provided by Canada.

Minimum requirements for approval

- 12.5 Unless otherwise provided in this Land Code, a Law or matter shall be considered approved by the Eligible Voters at a Meeting of Members or a Ratification Vote if 10% of the Eligible Voters participate in the vote and at least a Majority of the participating voters cast a vote in favour of the matter.

13. Ratification Process for this Land Code

- 13.1 A Ratification Vote for this Land Code shall be conducted in accordance with the Framework Agreement, the *First Nations Land Management Act* and the LNIB Community Ratification Process approved by Council;
- 13.2 All Eligible Voters are entitled to register to vote on the Land Code, in accordance with procedures set out in the LNIB Community Ratification Process;
- 13.3 This Land Code shall be approved if
- (a) A Majority of Registered Voters vote in favour; and
 - (b) The total number of votes in favour is at least 25% plus 1 of the total number of all Eligible Voters.



Ratification Process

- 13.4 Any Ratification Vote under this Land Code shall be conducted in substantially the same manner as the LNIB Community Ratification Process which was used to ratify this Land Code, with any modifications necessary to suit that particular situation, and the voting threshold shall be as set out in section 12.5 [*Minimum Requirements for Approval*].

No Verifier

- 13.5 A Verifier is not required in a Ratification Vote, except for the Ratification Vote to approve this Land Code pursuant to this section 13 [*Ratification Process for this Land Code*].

PART 4- INTERESTS AND LICENCES IN LAND

14. Limits on Interests and Licences

All dispositions in writing

- 14.1 An Interest in, or Licence to use, LNIB Land may only be created, granted, disposed of, assigned or transferred by a written instrument issued in accordance with this Land Code.

Standards

- 14.2 Council may, after full and fair consideration of any recommendations of the Lands Management Advisory Committee, establish mandatory standards, criteria and forms for Interests and Licences in LNIB Land.

Improper transactions void

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

Granting of Interests and Licences

- 14.4 A Person, whether or not a Member, may hold an Interest or Licence in LNIB Land subject to this Land Code and any relevant Laws; however, a Person who is not a Member may not hold an Allotment in LNIB Land, and shall not be issued a Certificate of Possession.

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Grants and Dispositions to Non-Members

- 14.5 The written consent of Council must be obtained for any grant, encumbrance or disposition of an Interest or Licence in LNIB Land to a Person who is not a Member.

Conditions

- 14.6 The grant of an Interest or Licence, or Council's consent to the granting, disposition or encumbrance of an Interest or Licence, may, upon receiving recommendations from the Lands Management Advisory Committee, be made subject to conditions, but any such conditions must be set out in writing in the granting instrument or the document that records Council's consent, as the case may be.

Cancellation of Interests and Licences

- 14.7 Council may, subject to an applicable ruling under PART 8 or by a court of competent jurisdiction, cancel or correct any Interest or Licence issued or allotted in error, by mistake or by fraud.

15. Existing Interests

Continuation of existing Interests

- 15.1 Any Interest or Licence in LNIB 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. Any renewals of any Interest or Licence in LNIB Land undertaken after this Land Code comes into effect will be in accordance with the terms and conditions of this Land Code.

16. New Interests and Licences

Authority to make dispositions

- 16.1 In accordance with this Land Code, and any General Zoning Law and Land Use Plan, Council may by Resolution, upon a recommendation from the Lands Management Advisory Committee, grant:
- (a) Interests and Licences in LNIB Land; and
 - (b) Licences to take Natural Resources from LNIB Land.

17. Interests Greater than 99 Years

- 17.1 This section 17 does not apply to:





- (a) The grant of an Allotment or other tenure available only to a Member; or
- (b) An Easement or right of way for the purpose of community utilities and services, wherein the term is specified to be "so long as required" for the purpose for which the Easement or right of way is granted.

17.2 Community Approval is required for the grant or disposition of an Interest or Licence in LNIB Land for a term greater than 99 years, and for the renewal of an Interest or Licence in LNIB Land that would extend its term beyond 99 years.

18. Role of the Lands Management Advisory Committee

18.1 The Lands Management Advisory Committee shall advise Council on the granting of Interests and Licences and may be authorized to act as a delegate of Council under this Part.

19. Non-Disturbance Agreement

19.1 Upon a recommendation of the Lands Management Advisory Committee, a Person, whether or not a Member, who holds a Leasehold in, or who has executed an agreement to lease or sublease LNIB Land, may request that Council execute a non-disturbance agreement designed to facilitate the development of the LNIB Land. The non-disturbance agreement may provide for an assurance that the Interest of a subtenant and any Person who derives its Interest in the LNIB Land from the sublease will not be terminated on account of a default by the head lessee under its lease or a mortgage of the lease, or may otherwise remain in possession of the LNIB Land.

20. Possession of Land by Members

Nature of Member's Interest In an Allotment

20.1 An Allotment is an Interest in LNIB Land that entitles the Member holding the Interest to:

- (a) possession of the land;
- (b) benefit from the resources arising from the land, with the exception of:
 - i. the removal of sand and gravel;
 - ii. the cutting and removal of timber; and
 - iii. subsurface mineral rights and claims;

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- (c) subject to section 20.5 [*Subsidiary Interests and Licences*], grant subsidiary Interests and Licences in the land;
- (d) transfer, devise or otherwise dispose of his or her Interest to another Member; and
- (e) any other rights, consistent with this Land Code, that are attached to Certificates of Possession under the *Indian Act* as the same is in force when this Land Code comes into effect.

Council may grant Allotments

20.2 Council may grant Allotments to available LNIB land to Members in accordance with procedures established by Council and any General Zoning Law and Land Use Plan.

No Community Approval

20.3 No Community Approval is required for an Allotment.

No Allotment to Non-Members

20.4 An individual who is not a Member shall not hold an Allotment or otherwise acquire a permanent Interest in LNIB Land.

Subsidiary Interests and Licences

20.5 A CP Holder may only grant a subsidiary Interest or Licence in his or her Allotment if the following conditions are met:

- (a) the purpose of the Interest or Licence is consistent with any General Zoning Law and Land Use Plan and all applicable LNIB policies and Laws;
- (b) the term of the Interest or Licence does not exceed 99 years; and
- (c) where the proposed grantee is a non-Member, Council consents to the granting of the Interest or Licence.

Issuance of a Certificate of Possession

20.6 Upon request of a CP Holder, Council will issue a Certificate of Possession to a Member for a lot for which a Member has received an Allotment, provided that the Member has met the necessary conditions and requirements established by Council's policies.

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21. Allocation of Lots

Allocation

- 21.1 Council may, by lease, rental arrangement, or other form of tenure, allocate lots of available LNIB Community Land to Members for residential purposes in accordance with procedures established by Council.

Allocation Laws

- 21.2 Council upon the recommendation of the Land Management Committee may enact Laws or develop policies respecting allocations under this Part, including
- (a) the form or forms of tenure by which allocations may be granted;
 - (b) application and approval procedures; and
 - (c) the rights to which the holder of an allocation is entitled.

No Community Approval

- 21.3 No Community Approval is required for the allocation of a lot to a Member under section 21.1 [*Allocation*].

No Allocation to Non-Members

- 21.4 An individual who is not a Member shall not be allocated a lot under this Part.

Claims to LNIB Community Land

- 21.5 Council upon the recommendation of the Land Management Committee may establish Laws or policies establishing a process to address Members' claims to an interest in, or rights to, LNIB Community Land.

22. Transfer and Assignment of Interests

Transfer of Interests

- 22.1 A Member may transfer or assign an Interest or Licence in LNIB Land to another Member without the need for Community Approval or the consent of Council.

Consent of Council

- 22.2 Except for transfers and assignments under section 22.1 [*Transfer of Interests*] and transfers and assignments that occur by operation of Law, including transfers of estates by testamentary disposition or in accordance with a Law enacted pursuant to section 26 [*Spousal Property Law*]:

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- (a) there shall be no transfer, assignment or encumbrance (by way of a Mortgage or otherwise) of an Interest or Licence in LNIB Land without the written consent of Council by Resolution; and
- (b) the grant of an Interest or Licence is deemed to include the requirements of paragraph (a) as a condition of any subsequent transfer or assignment.

Ceasing to be a Member

22.3 A person who ceases to be a Member shall, within six months after the day he or she ceases to be a Member, transfer any Allotment he or she holds to LNIB or another Member.

Allotment Reverts

22.4 If a Member fails to transfer his or her Allotment pursuant to section 22.3 [*Ceasing to be a Member*], the Allotment and any CP issued shall, six months and one day after the person ceases to be a Member, be cancelled and the LNIB Land described in the Allotment and any CP shall automatically become LNIB Community Land.

22.5 If an Allotment reverts to LNIB pursuant to section 22.4 [*Allotment Reverts*]:

- (a) the person ceasing to be a Member shall remain liable for any obligations or monies owing pursuant to any Interest he or she held prior to the date the Allotment reverts to LNIB; and
- (b) valid leases or other Interests held by third parties will continue on the former Allotment that reverts to LNIB until their term expires or they reach a negotiated agreement with LNIB to terminate or modify their Interest.

23. Limits on Mortgages and Seizures

Protections

23.1 In accordance with the Framework Agreement, sections 29 (Exemption from Seizure), 87 (Property Exemption from Taxation), 89(1) (Restriction on Mortgage Seizure) and 89(2) (Conditional Sales) of the *Indian Act* continue to apply to LNIB Land.

Mortgage of Member's Interest

23.2 The Interest of a Member in LNIB Land may be subject to a mortgage or charge only to LNIB or another Member except that a Leasehold held by a Member may be subject to charge or mortgage in accordance with the provisions of the Lease, if the Lease permits.



Time limit

23.3 The term of any charge or mortgage of an Interest shall not exceed the term of the Interest.

Default in mortgage

23.4 In the event of default in the terms of a charge or Mortgage of an Interest granted by LNIB or a corporation controlled by LNIB, the Interest is not subject to possession by the chargee or mortgagee pursuant to foreclosure, power of sale or any other form of execution or seizure, unless:

- (a) the charge or Mortgage was registered in the Register; and
- (b) a reasonable opportunity to redeem the charge or Mortgage was given to Council on behalf of LNIB.

Power of redemption

23.5 If Council exercises its power of redemption under section 23.4(b) [*Default in Mortgage*], LNIB becomes the Interest holder and takes the position of the chargor or mortgagor for all purposes after the date of the redemption.

24. Tenancy and Access Rights

Right of tenancy

24.1 Subject to this Land Code, Laws or Resolutions, the following persons may reside on LNIB Land:

- (a) a Member who has been allocated a residential lot by Council;
- (b) the Spouse and children (natural and adopted, whether by Provincial law or Nlaka'pamux tradition) of a Member referred to in paragraph (a);
- (c) a Member with an Interest in LNIB Land;
- (d) an invitee of a Member referred to in paragraph (b) or (d); and
- (e) Interest holders and Licence holders, in accordance with the provisions of the instrument granting the Interest or Licence.

Right of Access

24.2 Subject to this Land Code, Laws or Resolutions, the following Persons have a right of access to LNIB Land:



- (a) an Interest holder, and any Person who is granted a right of access under the terms of the Interest;
- (b) the holder of a Licence, and any Person who is granted a right of access under the terms of the Licence;
- (c) Interest Holders' and Licence Holders' permitted invitees;
- (d) a Member;
- (c) a Member's Spouse and children (natural and adopted, whether by Provincial law or Nlaka'pamux tradition);
- (d) a Person who is authorized in writing by a government body or any other public body, established by or under an enactment of LNIB, Parliament or the Province of British Columbia to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey; and
- (e) a Person authorized in writing by Council, the Lands Management Advisory Committee or by a LNIB Law.

Public access

24.3 A Person may have access to LNIB Land for 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; and
- (c) no Resolution has been enacted barring that Person from having access to LNIB Land.

Trespass

24.4 Any Person who resides on, enters or remains on LNIB Land other than in accordance with a right of residence or access under this Land Code or an Interest or Licence granted in accordance with this Land Code is guilty of an offence and may, in addition to other remedies, be ordered evicted or removed by Resolution, enforceable by any peace officer or enforcement official designated by Council by Resolution.

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Civil remedies

24.5 All civil remedies for trespass are preserved.

No Obligation

24.6 A right of residence or access does not imply any financial obligation on the part of LNIB.

No Liability

24.7 No liability is imposed on LNIB in respect of any person exercising a right of residency or access under this Land Code for injuries or damages suffered on account of the condition or state of LNIB Land.

25. Transfers on Death or Mental Incompetence

Right of widow or widower

25.1 In the event that a Member holding an Interest in LNIB Land:

- (a) dies and is survived by a Spouse who does not hold a registered Interest in that land; or
- (b) 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 section 25.2 [*Transfer of Interest*].

Transfer of Interest

25.2 If no provision has been made by a Member referred to in section 25.1 [*Right of Widow or Widower*] for the disposition of the Interest, then:

- (a) the Lands Management Advisory Committee shall take reasonable steps to advise the Member's Immediate Relatives that the Interest in land held by the Member is available for disposition;
- (b) the Member's Immediate Relatives may, with the assistance of the Panel if necessary, decide who among them is to receive the Interest in the land; and
- (c) if the Member left no Immediate Relatives or heirs and no will, the Interest will revert to LNIB as LNIB Community Land and:

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- i. if it is an Allotment, may at Council's discretion be returned to the pool of lands for allocation or allotment to Members who do not have an allocation or Allotment; or
- ii. may be used by LNIB for LNIB's purposes.

26. Spousal Property Law

Development of rules and procedures

26.1 Council shall enact a Spousal Property Law providing rules and procedures applicable on the breakdown of a marriage or a common-law marriage, to:

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

Enactment of rules and procedures

26.2 The rules and procedures contained in the Spousal Property Law shall be developed by the Lands Management Advisory Committee in consultation with the community, through a Community Engagement process and shall be enacted within 12 months from the date this Land Code comes into effect, or such longer period as may be agreed by the Council by Resolution.

General principles

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

- (a) regard for the best interests of any children of the marriage and compliance with any related court orders;
- (b) unless a valid marriage contract or a pre-marital agreement outlining otherwise has been signed by both Spouses:
 - i. each Spouse shall have an equal right to possession of the matrimonial home;
 - ii. each Spouse shall be entitled to an undivided half interest in the matrimonial home as a tenant in common;
- (c) the rules and procedures shall not discriminate on the basis of sex; and

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- (d) non-Members are not entitled to hold an Allotment or a charge against an Allotment.

27. Approval of Spousal Property Law

27.1 Any Spousal Property Law proposed hereunder must be submitted for Community Approval.

27.2 A Spousal Property Law shall be approved if at least 25% of the Eligible Voters participate in the vote and a Majority of those who participate vote to approve it.

PART 5 - PROTECTION OF LAND

28. Expropriation

Right and Interest that may be expropriated

28.1 An Interest or Licence in LNIB Land, or in any building or other structure on those lands, may only be expropriated by LNIB in accordance with the Framework Agreement and a Law enacted in accordance with section 28.3 [*Expropriation Laws*].

Community purposes

28.2 A community expropriation may only be made for a Community Purpose.

Expropriation Laws

28.3 An Interest or Licence in LNIB Land or in any building or other structure on such land may only be expropriated by LNIB provided the following conditions have been met:

- (a) a Law has been enacted setting out:
- i. a procedure governing the expropriation process,
 - ii. a method of determining fair compensation to be paid to the Interest or Licence holder, and
 - iii. the procedure for an arbitrator or a panel of arbitrators to resolve disputes regarding the amount of compensation to be paid to any Interest holder;

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- (b) Written notice has been given to the Interest holder specifying the Interest or Licence that is considered for expropriation or cancellation as a result of an expropriation;
- (c) Council has undertaken Community Engagement,
- (d) Council has attempted in good faith to negotiate an agreement with the Interest-holder or Licence-holder (as the case may be) for the transfer or cancellation of the Interest or Licence that is being considered for expropriation but has failed to reach such an agreement, and
- (e) Council has issued a report to the Members setting out the Community Purpose for which the proposed expropriation is required and the reason why the proposed expropriation is necessary, and seeking their input.

Rights that may not be expropriated

- 28.4 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 LNIB.

Acquisition by mutual agreement

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

Compensation for rights and Interests

- 28.6 LNIB shall, in accordance with its 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 holder of the Interest or Licence being expropriated.
- 28.7 No land will be expropriated when LNIB has insufficient funds to provide compensation as described in section 28.8 [*Compensation Calculations*] of this Land Code.

Compensation calculations

- 28.8 The total value of the compensation under section 28.6 [*Compensation for rights and interests*] shall be based on:
- (a) the fair market value of the Interest or Licence being expropriated determined in accordance with section 28.9 [*Fair Market Value*];

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- (b) the replacement value of any improvement to the land being expropriated;
- (c) the damages attributable to any disturbance; and
- (d) damages for any reduction in the value of any remaining Interest or Licence.

Fair Market Value

28.9 The fair market value of an expropriated Interest or Licence:

- (a) shall be assessed by a mutually agreed upon professional land appraiser accredited by the Appraisal Institute of Canada with an AACI designation or equivalent. The terms of reference for the appraisal shall be determined by the Council by Resolution. The costs for the appraiser shall be borne by LNIB. If the parties cannot agree upon a professional land appraiser to determine fair market value, the matter will be determined by arbitration in the same manner provided in Part IX (Dispute Resolution) of the Framework Agreement;
- (b) is equal to the amount that would have been paid for the Interest or Licence if it had been sold on LNIB Land by a willing seller to a willing buyer based on the current or existing use of the Interest or Licence. For greater certainty, the fair market value of an expropriated Interest or Licence shall reflect the provisions of this Land Code, including any restrictions on what may be done with the Interest or Licence and the need to obtain approvals.

Neutral evaluation to resolve disputes

28.10 The resolution of disputes concerning the right of LNIB to expropriate shall be determined by the Panel only if a Panel has been established and all the parties consent in writing to its use, and if a Panel has not been established or all the parties do not consent in writing to its use, by neutral evaluation in the same manner as provided in Part IX (Dispute Resolution) of the Framework Agreement and the 60 day period referred to in clause 32.6 (Expropriation of First Nation Land by Canada - Restrictions) of the Framework Agreement shall be applied, as appropriate in the circumstances, by the neutral evaluator.

Arbitration to resolve disputes

28.11 The Resolution of the following disputes shall be determined by arbitration in the same manner as provided in Part IX (Dispute Resolution) of the Framework Agreement:

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

Forfeiture is not Expropriation

28.12 For greater certainty, Council is not required to proceed through the steps set out in this section 28 [*Expropriation*] to cancel an Interest or Licence, or to proceed with an complete a forfeiture, for a tax debt or other debt owing to LNIB.

29. Heritage Sites

Heritage Site Law

29.1 The Council shall within a reasonable time after this Land Code comes into effect, propose a Law regarding heritage sites for Community Approval.

Community Approval of Development

29.2 No amendment may be made to a Land Use Plan to delete a heritage site designated under that plan unless the amendment receives Community Approval.

30. Voluntary Land Exchanges and Protections

Conditions for a land exchange

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

No effect

30.2 An exchange of LNIB Land is of no effect unless it receives Community Approval.

Land to be received

30.3 No land exchange may be agreed to unless the land to be received by LNIB in the exchange:

- (a) is of a value at least comparable, having regard to any compensation received under section 30.5 [*Additional land*], to the appraised value of the LNIB Land to be exchanged; and

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- (b) is eligible to become a reserve and LNIB Land subject to this Land Code.

Negotiators

- 30.4 Any Person who negotiates a land exchange agreement on behalf of LNIB must be designated by way of Resolution for that purpose.

Additional land

- 30.5 LNIB may receive compensation, such as money or one or more other parcels of land, in addition to or substitution for the land referred to in section 30.3 [*Land to be received*], and such other land may be held by LNIB or in trust for LNIB by a nominee on behalf of LNIB in fee simple or any other manner, and any such additional land does not need to meet the requirements set out in section 30.3 [*Land to be received*].

Federal consent

- 30.6 Before LNIB concludes a land exchange agreement in respect of LNIB Land, it must receive a written statement from Canada stating that Her Majesty in right of Canada:
- (a) consents to set apart as a reserve or as an addition to reserve, the land to be received in exchange under section 30.3 [*Land to be received*], 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 exchange as set out in the exchange agreement.

Community notice

- 30.7 At such time as negotiation of a land exchange agreement is concluded, and at least 21 days before the Ratification Vote provided in section 30.2 [*No effect*], Council or the Lands Management Advisory Committee shall provide the following information to the Eligible Voters in a manner consistent with the confidential nature of the information:
- (a) a description of the LNIB Land to be exchanged;
 - (b) a description of the land to be received by LNIB;
 - (c) a description of any other compensation to be received;
 - (d) a report of a professional land appraiser accredited by the Appraisal Institute of Canada with an AACI designation or equivalent stating that the



conditions in section 30.3 [*Land to be received*] have been met, if applicable;

- (e) subject to any confidentiality obligations, a copy or summary of the exchange agreement; and
- (f) a copy of the statement referred to in section 30.6 [*Federal consent*].

Process of land exchange

30.8 A 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 LNIB 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 Register.

PART 6 - LAND ADMINISTRATION

31. Administration – General

Administration

31.1 Council will perform all the duties and functions, and exercise all the powers, of LNIB that are not specifically assigned to an individual or body established under this Land Code.

Delegation

31.2 Notwithstanding section 31.1 [*Administration*], Council may, by enacting a Law or by passing a Resolution, delegate administrative authority in relation to this Land Code or a Law to an individual or body established or authorized under this Land Code or pursuant to a Law.

32. Lands Management Advisory Committee

Lands Management Advisory Committee established

32.1 The Lands Management Advisory Committee is hereby established to assist with:



- (a) the development of the land administration system;
- (b) advise Council and its staff on matters respecting LNIB Land;
- (c) recommend to Council Laws, Resolutions, policies and procedures respecting LNIB Land;
- (d) hold regular and special meetings of Members to discuss land issues and make recommendations to Council on the resolution of these land issues;
- (e) assist in the flow of information on land issues between Members and Council;
- (f) oversee Community Engagement and Community Approvals under this Land Code;
- (g) oversee other consultations under this Land Code; and
- (h) perform such other duties and functions as Council may direct.

Development of land related rules and procedures

32.2 Within a reasonable time after this Land Code comes into effect, Council shall, in consultation with the community and the Lands Management Advisory Committee, establish rules and procedures that address the following matters:

- (a) the process and criteria for granting Interests and Licences in LNIB Land;
- (b) environmental protection and assessment in relation to First Nation Land;
- (c) resolution of disputes in relation to LNIB Land;
- (d) land use planning and zoning; and
- (e) spousal property.

Implementation of policies

32.3 Rules and procedures developed in accordance with section 32.2 [*Development of land related rules and procedures*] shall be considered by Council for implementation as Laws, policies or amendments to this Land Code.

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Internal procedures

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

33. Membership of the Lands Management Advisory Committee

Composition

33.1 The Lands Management Advisory Committee shall be composed of an uneven number of no less than five and no more than seven members, including the Chair, all of whom must be Eligible Voters.

Lands Manager

33.2 The Lands Manager is an *ex officio* member of the Lands Management Advisory Committee who, for greater certainty is not included in the number of Lands Management Advisory Committee members referred to in section 33.1 [*Composition*].

Eligibility

33.3 Any Eligible Voter, whether resident on or off LNIB Land, is eligible for appointment to the Lands Management Advisory Committee, except for the following:

- (a) any Eligible Voter convicted of an offence that was prosecuted by way of indictment except for a conviction for an offense where the person was involved in the support or defence of an aboriginal right or title;
- (b) any undischarged bankrupt or an individual that owes money to LNIB; and
- (c) any Eligible Voter convicted of a corrupt practice in connection with an election, including but not limited to, accepting a bribe, dishonesty or wrongful conduct.

Appointment

33.4 The members of the Lands Management Advisory Committee shall be appointed by Council so as to ensure a broad representation of the LNIB membership, and shall be composed of the following:

- (a) one member of Council as determined by Council;
- (b) the Lands Manager, *ex officio*; and

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- (c) a minimum of 4 and a maximum of 6 additional Eligible Voters who meet the eligibility requirements set out in section 33.3 [Eligibility].

Term of office

- 33.5 The term of office of a member of the Lands Management Advisory Committee appointed under section 33.4(c) shall not exceed four years, but nothing precludes such member from being elected for further terms.

Appointment of Council representative

- 33.6 The appointment under section 33.4(a) [Appointment] shall be made as soon as practicable after an election of Council.

Staggered terms

- 33.7 In the first appointment of Lands Management Advisory Committee members under this Land Code:

- (a) Half of the appointees under section 33.4(c) (or in the case of an of an uneven number of appointees under section 33.4(c), the Majority of the appointees) shall be appointed for a term commencing at midnight of the appointment date and terminating at midnight four years following the appointment date; and

- (b) the remaining appointees under section 33.4(c) shall hold office for a term commencing at midnight of the appointment date and terminating at midnight two years following the appointment date.

- 33.8 Subject to section 33.11 [Balance of Term in Office], in all appointments subsequent to the first appointment of Lands Management Advisory Committee members, appointees under section 33.4(c) will hold office for a term commencing at midnight on the date of their appointment and terminating at midnight four years following that date.

Vacancy on Lands Management Advisory Committee

- 33.9 The office of a member of the Lands Management Advisory Committee becomes vacant if the member, while holding office:

- (a) is or becomes ineligible to hold office under section 33.3 [Eligibility];
- (b) ceases to be a Member because of a transfer of membership from LNIIB;

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- (c) is absent for three consecutive meetings of the Lands Management Advisory Committee for a reason other than illness or incapacity without being authorized to be absent by Majority of the Lands Management Advisory Committee;
- (d) dies or becomes mentally incompetent;
- (e) is dismissed by Council for contravention of conflict of interest rules established under this Land Code, a Law, a by-law or policies approved by Council;
- (f) resigns in writing; or
- (g) in the case of the member of the Lands Management Advisory Committee appointed under section 33.4(a), ceases to be a member of Council.

Vacancy In term

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

Balance of term of office

33.11 The term of a Member of the Lands Management Advisory Committee appointed to fill a vacancy under section 33.10 [*Vacancy in term*] is the balance of the term in respect of which the vacancy occurred.

34. Chair of the Lands Management Advisory Committee

Chair

34.1 The member of Council who is appointed under section 33.4(a) [*Appointment*] shall be the Chair of the Lands Management Advisory Committee.

Alternate Chair

34.2 If the Chair is unable to perform the functions of office either temporarily or on a long term basis, the Lands Management Advisory Committee shall appoint another member of the Lands Management Advisory Committee to act as the Chair, subject to confirmation by Council.

Duties of the Chair

34.3 The Chair shall:

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- (a) chair meetings of the Lands Management Advisory Committee;
- (b) ensure that there is an agenda prepared and circulated to Lands Management Advisory Committee Members in advance of each meeting and that the agenda is followed, as amended, at each meeting;
- (c) ensure the preparation of financial statements relating to all activities of the Lands Department, including any applicable revenues and expenditures concerning LNIB Land;
- (d) table any financial statements of the Lands Department with Council;
- (e) report to the Council and Members on the activities of the Lands Management Advisory Committee and Lands Department;
- (f) ensure the audited annual financial statements are presented under section 40.6 [*Explanation of auditor's report*]; and
- (g) perform such other duties as Council may reasonably prescribe.

35. Revenue From Lands

Determination of fees and rent

35.1 The Lands Management Advisory Committee shall, subject to the approval of Council, establish a process for determining:

- (a) any application, grant of Interest, payment, fees, rent, royalty or other amount relating to a Law, process or grant under this Land Code;
- (b) fees for services provided in relation to any LNIB 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

35.2 Subject to section 38.4 [*Establishment of bank accounts*], the Lands Management Advisory Committee shall recommend to Council processes and criteria for managing LNIB's obligations in relation to revenue from LNIB Land.

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36. Registration of Interests

Enforcement of Interests

36.1 An Interest in LNIB Land created or granted after this Land Code comes into effect is not enforceable unless it is registered in the Register.

Duty to deposit

36.2 Provided that Council has received a registerable copy of the following instruments, Council or its authorized delegate shall ensure that each of the following instruments is deposited in the Register:

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

36.3 Every Person who receives an Interest in LNIB Land from a Member shall deposit an original copy of the relevant instrument in the Register.

Registration of consent or approval

36.4 No instrument that requires the consent of Council or Community Approval may be registered unless a certified copy of the document that records the consent or approval is attached to the instrument.

Limitation of liability

36.5 Neither LNIB, the Council, the Lands Manager or any LNIB employee or contractor shall be liable for ensuring that an instrument that affects or purports to affect LNIB Land:

- (a) Is validly made;
- (b) Complies with this Land Code or any Law;
- (c) Should be or is registered or recorded; or
- (d) Will be accepted by the First Nations Land Registry for registration or recording in the Register.

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Registration of Encumbrances and Financial Claims

- 36.6 For greater certainty, financial claims or other assertions of right which affect, or purport to affect, LNIB Land may, in accordance with all Laws and other applicable law, be recorded in the Register.

PART 7 - ACCOUNTABILITY

37. Conflict of Interest

Application of FAL Rules

- 37.1 Any Person dealing with a matter, or making a recommendation or a decision, that is related to LNIB Land must, in addition to complying with the requirements of this section, comply with all applicable Laws, by-laws, policies and procedures established by Council, including policies and procedures pursuant to the *Financial Administration Law*, respecting the avoidance and mitigation of conflicts of interest, as amended or replaced from time to time.

Application of conflict of interest rules

- 37.2 The rules in section 37.3 [*Duty to report and abstain*] apply to the following Persons when dealing with a matter, interest or decision relating to the LNIB Land:
- (a) each member of Council who is dealing with any matter before Council;
 - (b) each Person who is an employee or contractor of LNIB; and
 - (c) each Person who is a member of a board, committee or other body of LNIB.

Duty to report and abstain

- 37.3 If there is any interest, financial or otherwise, in the matter being dealt with that might involve the Person or his or her Immediate Relatives, that Person shall:
- (a) disclose in writing and/or orally at such meeting the interest to the Council and, if appropriate, to their employment, supervisor, board, committee or other body as the case may be;
 - (b) take no part in any deliberations on that matter;
 - (c) take no part in any votes, Resolutions, decisions or recommendations on that matter; and

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- (d) remove themselves from the room during deliberation and discussion amongst the remaining Council, board, committee, or other body, as the case may be.

Common Interests

- 37.4 Section 37.3 [*Duty to report and abstain*] does not apply to any interest that is held by a Member in common with every other Member. A Member shall not be considered to be in conflict if the proposed decision will benefit that Member in the same way it will benefit all Members.

Inability to act

- 37.5 If a 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

- 37.6 If Council is unable to vote on a proposed Law, Resolution or other matter in relation to LNIB Land due to a conflict of interest, Council may refer the matter to a Meeting of Members for Community Approval.

Other Laws

- 37.7 For greater certainty, Council may enact such further Laws or approve policies as may be necessary to implement this section.

Penalties

- 37.8 In addition to any other penalty that may be prescribed by Council, by federal or provincial law or by a Law for breach of this Part, a Person is liable to LNIB to repay any benefit to himself or herself, an immediate Family member or a business in which that Person holds an interest, resulting from a violation of this Part.

38. Financial Matters

Application

- 38.1 This Part 7 [*Accountability*] applies only to financial matters relating to LNIB Land, and revenues derived from and expressly incurred in respect of LNIB Land, and will be interpreted in a manner consistent with the *Financial Administration Law*.

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Compliance with Financial Administration Law

- 38.2 All accounting, auditing, reporting and other financial matters relating to LNIB Land will be conducted in accordance with *the Financial Administration Law*, and all regulations, policies or procedures enacted or approved under it.

Paramountcy

- 38.3 If there is an inconsistency or conflict between this Part 7 and the *Financial Administration Law*, the *Financial Administration Law* prevails to the extent of the inconsistency or conflict.

Establishment of bank accounts

- 38.4 Any monies received by LNIB or corporations controlled by LNIB that are derived from the administration of LNIB Land under the Framework Agreement and this Land Code, (for greater certainty, excluding revenue derived from property taxation under LNIB's taxation and assessment laws), must be receipted and fully deposited, without delay, in the general account of LNIB and broken into a sub-account designated for LNIB Land and Natural Resources revenues, in accordance with generally accepted accounting practices, including:

- (a) transfer payments received from Canada for the management and administration of LNIB Land;
- (b) monies received by LNIB from the grant or disposition of any Interests or Licences in LNIB Land;
- (c) all fees, fines, charges and levies collected under a Law or Resolution in relation to LNIB Land;
- (d) all capital and revenue monies received from Canada from the grant or disposition of any Interests and Licences in LNIB Land; and
- (e) any other land or Natural Resources revenue received by LNIB excluding property tax.

Controlled by LNIB

- 38.5 For the purpose of this Part 7 [*Accountability*], "controlled by LNIB" means with respect to a corporation, the direct or indirect possession of the power to direct or cause the direction of the affairs or management of the corporation, whether through the ownership of voting securities, as trustee, personal representative or executor, by contract, credit arrangement or otherwise, including, without limitation:

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- (a) the right to exercise a Majority of the votes which may be cast at a general meeting of a corporation; and
- (b) the right to elect or appoint, directly or indirectly, a Majority of the directors of a corporation or other Persons who have the right to manage or supervise the management of the affairs and business of the corporation.

Preparation of Budget

38.6 The Lands and Natural Resources Budget shall be prepared by the Financial Controller of LNIB in consultation with the Lands Manager and any other department that the Financial Controller considers relevant before the commencement of the fiscal year and shall provide a summary of anticipated revenues from LNIB Land and Natural Resources and proposed expenditures for those funds.

Adoption of budget

38.7 Council shall:

- (a) 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 by Resolution one or more supplementary budgets for that fiscal year;
- (b) prior to adopting a budget referred to in paragraph (a) consult with the Lands Management Advisory Committee.

Supplementary Budget

38.8 Prior to adopting a supplementary budget referred to in section 38.7(a), Council will request the Financial Controller and Lands Manager to prepare and comment on the supplementary budget.

Procedure

38.9 After adopting a land management budget or supplementary budget, Council shall, without undue delay:

- (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 administrative offices of LNIB for inspection by Members.

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If no Budget

38.10 If Council fails to adopt a land management budget for a fiscal year prior to the beginning of that fiscal year:

- (a) the budget and any supplementary budgets of the previous fiscal year shall apply until a new budget is adopted; and
- (b) Council will adopt a land management budget as soon as possible.

Expenditures

38.11 Except in the event of an emergency, Council may not expend monies related to land or commit itself, by contract or otherwise, to expend monies related to land unless the expenditure is authorized by or under a Law or an approved budget.

Other Laws and policies

38.12 Council may enact such further Laws or adopt such further policies and rules as maybe necessary to implement this Part.

39. Financial Records

Financial records

39.1 LNIB shall keep financial records related to LNIB Land budgets, revenue and expenditures in accordance with generally accepted accounting principles and in accordance with the *Financial Administration Law* and related policies.

Offences

39.2 A Person is guilty of an offence if that Person:

- (a) impedes or obstructs anyone from exercising their right to inspect the financial records of LNIB; or
- (b) has control of the financial records of LNIB and fails to give all reasonable assistance to a Member exercising his or her right to inspect the financial records.

Preparation of financial statement

39.3 Within 120 days after the end of each fiscal year, the Band Finance Department shall prepare a financial statement, in comparative form, containing at a minimum:

- (a) a balance sheet;

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

Consolidated accounts

39.4 the accounting, auditing and reporting requirements of this Land Code may be consolidated with other accounts, audits and reports of LNIB, provided that the statement and analysis relating to the LNIB Land are clearly distinguished and documented.

40. Audit

Appointment of auditor

40.1 For each fiscal year, a duly accredited auditor shall be appointed by Council by Resolution and contracted with to audit the financial records of LNIB relating to the LNIB Land.

Term of Service

40.2 The auditor appointed under this Part shall continue to act for LNIB until reappointed or replaced.

Remuneration

40.3 The auditor's remuneration shall be as agreed to by Council in accordance with the terms of any contract entered into between LNIB and the auditor.

Duty of auditor

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

Access to records

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

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Explanation of auditor's report

- 40.6 Council shall present the auditor's report to the Members at a community meeting or a Meeting of Members.
- 40.7 Nothing precludes an auditor contracted with for other Band audits from being contracted under section 40.1 [*Appointment of auditor*].

41. Annual Report

Publish annual report

- 41.1 Council shall, within 30 days of receiving an audit report under section 40.4 [*Duty of auditor*], prepare and table with the Lands Management Advisory Committee, an annual report on LNIB Land management which shall include:
- (a) an annual review of land management activities;
 - (b) a copy and explanation of the audit report as it applies to LNIB Land; and,
 - (c) such other matters as may be determined by Council or the Lands Management Advisory Committee .

42. Access to Information

Access

- 42.1 Any Member may, during normal business hours at the main administration office of LNIB, have reasonable access to:
- (a) the register of Laws;
 - (b) the auditor's report under section 40.4 [*Duty of auditor*];
 - (c) the budget or supplementary budget referenced in section 38.8 [*Supplementary Budget*], and
 - (d) the annual report on lands issues in section 41 [*Annual Report*].

Copies for Members

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

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PART 8 - DISPUTE RESOLUTION

43. Dispute Resolution Process

Informal Resolution to Disputes

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

Dispute Resolution Law

43.2 The Council shall, within a reasonable time after this Land Code comes into effect, enact a Law establishing a process for the resolution of disputes in relation to LNIB Land.

Content of Dispute Resolution Law

43.3 The Law enacted under section 43.2 [*Dispute Resolution Law*] shall provide for the following matters:

- (a) the appointment of an individual, body or bodies to hear disputes in relation to LNIB Land, and the powers and duties of the individual, body or bodies;
- (b) persons who may initiate a dispute, which shall include persons whose rights or interests in LNIB Land is affected by a land management decision;
- (c) procedures for initiating a dispute;
- (d) the establishment of process steps for the resolution of disputes;
- (e) limitation periods;
- (f) whether appeals from decisions are available; and
- (g) costs.

Optional process

43.4 The process established pursuant to a Law enacted under section 43.2 [*Dispute Resolution Law*] is optional and all other civil remedies continue to be available

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Court of competent jurisdiction

43.5 In the absence of a Law under section 43.2 [*Dispute Resolution Law*], disputes in relation to LNIB Land may be referred to a court of competent jurisdiction.

PART 9 - OTHER MATTERS

44. Liability

Liability Coverage

44.1 Council shall arrange, maintain and pay, out of the transfer payments received from Canada or other source, insurance coverage for:

- (a) liability of LNIB in relation to LNIB Land; and
- (b) LNIB's Councillors, members of the Lands Management Advisory Committee and officers and employees engaged in carrying out any matter related to LNIB Land to indemnify them against personal liability arising from those activities.

Extent of coverage

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

Bonding

44.3 Every employee, officer or contractor of LNIB whose responsibilities include collecting or accounting for land revenue must be bondable.

45. Offences and Enforcement

Application of the *Criminal Code*

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

Other Offences and Penalties

45.2 Despite section 45.1 [*Application of the Criminal Code*]:

- (a) a Law may provide for fines for violation of specified provision of the Law; and

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- (b) a Law may provide for a variety of enforcement mechanisms including ticketing, stop work orders, restorative orders, and fines.

Justices of the peace; alternative enforcement mechanisms

45.3 For greater certainty, Council may enact Laws:

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

Courts

45.4 If no Justice of the Peace is appointed, or no applicable community justice process is established, this Land Code and Laws are to be enforced by a Court of competent jurisdiction.

46. Amendments to Land Code

Amendment to Land Code

46.1 This Land Code may be amended from time to time.

Community Approval

46.2 All amendments to this Land Code, except minor amendments that do not change the substance of the Land Code, such as to correct typographical errors or to remedy inconsistencies, must receive Community Approval at a Meeting of Members and approval of the Council by Resolution.

Verifier

46.3 A Verifier is not required in relation to Community Approval for an amendment to this Land Code.

47. Commencement

Preconditions

47.1 This Land Code shall not come into effect unless:

- (a) the Eligible Voters approve this Land Code and the Individual Agreement with Canada by a Ratification Vote; and
- (b) this Land Code has been certified by the Verifier pursuant to the Framework Agreement.

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Commencement date

47.2 Subject to section 47.1 [*Preconditions*] this Land Code shall come into effect on the first day of the month following the certification of this Land Code by the Verifier

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