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LONG LAKE #58

FIRST NATION LAND CODE

August 18, 2016

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PREAMBLE

Whereas the Long Lake #58 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 Long Lake #58 First Nation became a signatory on March 3, 2014 to the *Framework Agreement on First Nation Land Management*, as Long Lake #58 First Nation wishes to govern its Land and resources under the *Long Lake #58 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 Long Lake #58 First Nation will continue;

And Whereas the *Framework Agreement on First Nation Land Management* is ratified by Long Lake #58 First Nation through community approval of the *Long Lake #58 First Nation Land Code*;

NOW THEREFORE, THIS LAND CODE IS HEREBY ENACTED AS THE FUNDAMENTAL LAND LAW OF THE LONG LAKE #58 FIRST NATION.

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PART 1 PRELIMINARY MATTERS

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1. Title

Title

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- 1.1 The title of this enactment is the *Long Lake #58 First Nation Land Code*.

2. Definitions

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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*:

"Band Council Resolution" means a resolution of Council enacted under this *Land Code*;

"Canada" means Her Majesty the Queen in Right of Canada;

"Common-Law Partnership" means the relationship between two (2) persons who are cohabiting in a conjugal relationship, having so cohabited for a period of at least twelve (12) consecutive months;

"Community Purpose" means a purpose which is intended to provide a facility, benefit or support for the members or persons residing on Long Lake #58 First Nation Land, and may include public works, utility or transportation corridors, or similar purposes;

"Council" means the elected Council consisting of the Chief and Councillors of Long Lake #58 First Nation or any successor elected government of the Long Lake #58 First Nation;

"Dispute Resolution Panel" means the Dispute Resolution Panel established under Part 8 of this *Land Code*;

"Eligible Voter" means, for the purpose of voting in respect of Land matters under this *Land Code*, a Member who is 18 years of age or older on the day of the vote;

"Expropriate" or "Expropriation" means the taking for community purposes, by the Long Lake #58 First Nation, of Interests or Licences in Land, without the consent of the holder of the Interest or Licence;

"Extended Family", in respect of a person, means the person's grandparent, 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 maintained by the Department of Indigenous and Northern Affairs Canada under clause 51 of the *Framework Agreement*;

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"*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 Long Lake #58 First Nation on March 3, 2014;

"*Heritage Site*" means a site on Long Lake #58 First Nation Land that is of particular cultural, historical, archaeological, anthropological or spiritual importance to Long Lake #58 First Nation and the Members;

"*Immediate Family*", in respect of a person, means and includes the person's parent, sister, brother, child and/or Spouse;

"*Individual Agreement*" means the *Individual Agreement* made between Long Lake #58 First Nation and Canada in accordance with clause 6.1 of the *Framework Agreement*;

"*Interest*", in relation to Long Lake #58 First Nation Land, means any interest, right or estate of any nature in or to that Land, including a lawful possession, allotment, lease, easement, servitude, profit à prendre, or right of way, but does not include title to that Land;

"*Land*" or "*Long Lake #58 First Nation Land*" means any Long Lake #58 First Nation reserve Land that is subject to this *Land Code* as described in Annex A of this *Land Code*;

"*Land Code*" means the *Long Lake #58 First Nation Land Code*, and sets out the basic provisions regarding the exercise of Long Lake #58 First Nation's rights and powers over its Land;

"*Land Law*" means a law applicable to Long Lake #58 First Nation Land, enacted in accordance with this *Land Code*;

"*Lands Committee*" means the *Lands Committee* established under this *Land Code*;

"*Lands Department*" means the department established under this *Land Code* to assist in the management and administration of Long Lake #58 First Nation Land;

"*Licence*", in relation to Long Lake #58 First Nation Land, means any right of use or occupation of that Land, other than an *Interest* in that Land;

"*Long Lake #58 First Nation*" means the Long Lake #58 First Nation and its Members;

"*Long Lake #58 First Nation Lands Register*" means the separate Long Lake #58 First Nation Lands Register, established in accordance with this *Land Code* and maintained by Long Lake #58 First Nation to serve as the official and primary Land register for Land documents;

"*Long Lake #58 First Nation Community Ratification Process*" means the *Long Lake #58 First Nation Community Ratification Process*, which was used to ratify this *Land Code*;

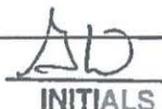
"*Meeting of Members*" means a meeting under section 13 of this *Land Code* to which the Members are invited to attend;

"*Member*" means a person whose name appears or is entitled to appear on the Long Lake #58 First Nation Band Membership List;

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"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;

"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

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Interpretation

3.1 In this *Land Code*:

- a) the *Land Code* shall be interpreted in a fair, large and liberal manner;
- b) the use of 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 Long Lake #58 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 Long Lake #58 First Nation, unless otherwise provided.

Language

- 3.3 The language of Long Lake #58 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.

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Paramountcy

- 3.4 If there is an inconsistency or conflict between this *Land Code* and any other Long Lake #58 First Nation enactments, including a by-law enacted under section 81 of the *Indian Act*, this *Land Code* shall prevail 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* shall 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 rights, Treaty rights, inherent rights or other right or freedoms that pertain now or in the future to Long Lake #58 First Nation or its Members; or
 - c) the fiduciary relationship between Canada and Long Lake #58 First Nation and its Members.

Land and Interests Affected

- 3.7 A reference to Land in this *Land Code* means all rights and interests in and of that Land, and includes:
 - a) all renewable and non-renewable natural resources in and of that Land, to the extent that these are under the jurisdiction of Canada;
 - b) water and beds underlying water, to the extent that these are under the jurisdiction of Canada;
 - c) Riparian Rights;
 - d) all Interests and Licences granted by Canada and listed in the Individual Agreement; and
 - e) all Interests and Licences granted by Long Lake #58 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*. **VERIFIED**

4. Authority to Govern

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Origin of Authority

- 4.1 The traditional teachings of Long Lake #58 First Nation speak of the obligation of the people of Long Lake #58 First Nation to care for and respect the Land and the magnificent wonders of nature created on the Land. By enacting this *Land Code*, Long Lake #58 First Nation is reclaiming this special responsibility.

Flow of Authority

- 4.2 The authority of Long Lake #58 First Nation to govern its Land and resources flows from the Creator to the people of Long Lake #58 First Nation, and from the people to Council according to the culture, traditions, customs and laws of Long Lake #58 First Nation.

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Special Responsibility and Legal Capacity

4.3 By enacting this *Land Code*, Long Lake #58 First Nation is reaffirming its special responsibility to care for and respect the Land, which has been the obligation of Members and their ancestors since time immemorial. For any purpose related to Long Lake #58 First Nation Land, Long Lake #58 First Nation has legal capacity to acquire and hold property, to borrow, to contract, to expend and invest money, to be a party to legal proceedings, to exercise its powers and to perform its duties.

5. Purpose

Purpose

5.1 The purpose of this *Land Code* is to set out the principles, rules and administrative structures that apply to Long Lake #58 First Nation Land and by which Long Lake #58 First Nation shall exercise its authority over that Land in accordance with the *Framework Agreement*.

6. Description of Long Lake #58 First Nation Land

Long Lake #58 First Nation Land

6.1 The Long Lake #58 First Nation Land that is subject to this *Land Code* is that Land known as Long Lake Indian Reserve No. 58.

Description of Land

6.2 Long Lake #58 First Nation Land includes all reserve Land listed in the Individual Agreement and such other Land as may be described in the Individual Agreement as amended from time to time, and more particularly described as:

a) **Long Lake Indian Reserve No. 58**

Land Description of the Extent of Reserve Lands that will be subject to the Land Code of the Long Lake 58 First Nation under the First Nations Land Management Act.

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

Long Lake Indian Reserve No. 58, District of Thunder Bay, all as shown on Plans 65135 CLSR and 105310 CLSR recorded in the Canada Lands Surveys Records at Ottawa; the herein described land containing 231 hectares (571 acres).

Additional Lands

6.3 Council shall hold a Meeting of Members 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 Long Lake #58 First Nation Land in the *Land Code* and the Individual Agreement.

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Public Notice of Inclusion of Land

- 6.5 Council shall give public notice, in accordance with section 14, on any proposed inclusion of Land before the Council makes a Band Council Resolution declaring the Land to be subject to this *Land Code*.

Inclusion of Land or Interest

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

PART 2 LONG LAKE #58 FIRST NATION LEGISLATION

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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 Long Lake #58 First Nation Land;
 - b) Interests and Licences in relation to Long Lake #58 First Nation Land; and
 - c) any matter necessary or ancillary to the making of Land Laws in relation to Long Lake #58 First Nation Land.

Examples of Land Laws

- 7.2 For greater certainty, Council may make Land Laws on matters including, but not limited to:
- a) the 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 Long Lake #58 First Nation Land;
 - c) environmental assessment and protection;
 - d) provision of local services in relation to Long Lake #58 First Nation Land and the imposition of equitable user charges;
 - e) the enforcement of Long Lake #58 First Nation First Nation Land Laws, including the establishment of offences, of means to achieve compliance and of comprehensive enforcement procedures; and
 - f) the provision of services for the resolution, outside the courts, of disputes in relation to Long Lake #58 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, bylaws, standards and policies. These regulatory instruments must be taken by the Council in accordance with the enabling Land Law and, unless otherwise specified therein, are not subject to the Law-Making Procedure established under this *Land Code*.

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8. Law-Making Procedure

Introduction of Land Laws

- 8.1 A proposed Land Law may be introduced at a duly convened meeting of the Council by:
- a) the Chief;
 - b) a Councillor;
 - c) the Lands Manager; or
 - d) the representative of the Lands Committee, or other body or authority composed of Members that may be authorized by the Council to do so.

Rationalization of Proposal

- 8.2 It shall be incumbent upon any proponent to submit a written explanation for the reason for the proposed Land Law.

Procedure upon Receipt of Proposal

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

Tabling and Posting of Proposed Land Laws

- 8.4 Before a proposed Land Law may be enacted by the 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;
 - c) posted in public places on Long Lake #58 First Nation Land and publicly available online at least thirty five (35) days before the Land Law is to be enacted; and
 - d) respect any additional method as Council may consider appropriate.

Urgent Matters

- 8.5 The Council may enact a Land Law without the preliminary steps required under section 8.4, if the Council is of the opinion that the Land Law is needed urgently for public health and safety or to protect Long Lake #58 First Nation Land or the Members.

Expiration

- 8.6 A Land Law enacted under section 8.5 expires ninety (90) days after its enactment unless re-enacted in accordance with section 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 Band Council Resolution concerning Long Lake #58 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

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Publication

- 9.1 Land Laws enacted 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 public places on Long Lake #58 First Nation Land accessible to all Members, as soon as practicable after enactment and for a period of not less than thirty (30) days thereafter;
 - c) by posting a copy of the Land Law in a location within the administration office of Long Lake #58 First Nation accessible to all Members, as soon as practicable after enactment and for a period of not less than thirty (30) days thereafter;
 - d) by making it publicly available on the Long Lake #58 First Nation website and any Long Lake #58 First Nation Social Media;
 - e) by publishing the Land Law in the community newsletter and any other newspaper considered appropriate for a period of not less than fourteen (14) days thereafter;
 - f) in accordance with any additional method as Council may consider appropriate to ensure that all Members, residing on and off reserve Land, are properly informed.

Registry of Land Laws

- 9.2 Council shall cause to be kept, at the administrative offices of Long Lake #58 First Nation, a register of the original copy of all Land Laws and Band Council Resolutions, including Land Laws and Band Council 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 Band Council Resolution, including a Land Law or Band Council Resolution that has been repealed or is no longer in force on payment of a reasonable fee authorized by Council. Fees may be amended from time to time.

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10. Enforcement of Land Laws

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Enforceability of Land Laws

10.1 To enforce its *Land Code* and its Land Laws, Council shall, in consultation with the Lands Committee, 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, Long Lake #58 First Nation shall follow one (1) 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;
- c) make laws with respect to the appointment of Justices of the Peace; or
- d) make laws with respect to the appointment of Alternative Justice.

Enforcement Mechanisms

10.3 Council may enact laws to create ticketing processes or similar enforcement mechanisms or to incorporate such processes from provincial or local government sources.

PART 3 MEETINGS OF MEMBERS, COMMUNITY APPROVAL AND RATIFICATION PROCESS

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11. Participation of Members

Participation of Members

11.1 Every Member is entitled to participate in the Meetings of Members 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 Meetings of Members, community approval and ratification process set out in Part 3 of this *Land Code*.

13. Meetings of Members

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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 Long Lake #58 First Nation Land;
- f) enacting any Land Law respecting Matrimonial Real Property on Reserve Land under section 41;
- g) enacting a Land Law respecting the rate and criteria for the payment of fees or rent for Long Lake #58 First Nation Land;
- h) enacting a Land Law respecting the rights and procedures on Expropriation; and
- i) enacting a Land use plan;
- j) respecting any other matter, Land Law or class of law that the Council, by Band Council Resolution, declares to be subject to this section.

No Quorum

13.2 For greater certainty, a Meeting of Members for input purposes does not require a quorum.

14. Procedure at a Meeting of Members

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Notice of Meeting

14.1 The 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 at the Meeting of Members; and
- c) such other information and material that Council may consider appropriate.

Manner of Notice

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

- a) posting the notice in public places on Long Lake #58 First Nation Land at least thirty (30) days before the meeting or vote;
- b) mailing and emailing the notice to Members and taking reasonable steps to locate and inform Members who reside on and off-reserve at least thirty (30) days before the meeting or vote;
- c) posting the notice on a website maintained by Long Lake #58 First Nation that is open and accessible by any person who may be entitled to attend the meeting at least thirty (30) days before the meeting or vote;
- d) publishing the notice in the community newsletter or local newspaper at least thirty (30) days before the meeting or vote; and
- e) such additional method as Council, the Lands Manager or the Lands Committee may consider appropriate in the circumstances.

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Permission of Council

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

Informed Decision

- 14.4 Council may schedule more than one (1) Meeting 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 Long Lake #58 First Nation Land exceeding a term of twenty five (25) years;
- c) any renewal of a grant or disposition of an Interest or Licence in any Long Lake #58 First Nation Land that extends the original term beyond twenty five (25) years;
- d) any grant or disposition of any renewable and non-renewable natural resources on any Long Lake #58 First Nation Land exceeding a term of five (5) years;
- e) any development or deletion of a Heritage Site;
- f) any voluntary exchange of Long Lake #58 First Nation Land referred to in section 18 of this *Land Code*; and
- g) any Land Law or class of law that the Council, by Band Council Resolution, declares to be subject to this section.

Method of Approval

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

- 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 the voting policies.

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First Community Approval 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.

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Second Community Approval

15.5 If a quorum was not obtained pursuant to section 15.3 a second community approval vote may be called.

Second Community Approval Quorum

15.6 In order to obtain a quorum for a second attempt at a community approval vote, 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 Quorum

15.8 If a quorum was not obtained pursuant to section 15.6 a third community approval vote may be called without any quorum requirement.

Approval by Quorum

15.9 A matter shall be considered approved at a third attempt at a community approval vote without any quorum requirement, if a majority of fifty percent plus one (50%+1) of the Eligible Voters cast a vote to approve the matter.

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) 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 *Long Lake #58 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.

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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 to vote.

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 Eligible Voters who register to vote, cast a vote to approve the matter.

Second Ratification Vote

16.7 If a quorum was not obtained pursuant to section 16.5 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 to vote.

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 Eligible Voters who register to vote, cast a vote to approve the matter.

Policies, Consultation, Approval and Ratification

16.10 For greater certainty, Council in consultation with the Lands Committee, may make Land Laws or policies:

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

PART 4 EXPROPRIATION AND PROTECTION OF LAND

17. Expropriation

Acquisition by Mutual Agreement

17.1 The right of Long Lake #58 First Nation to Expropriate can only be exercised after a good faith effort to acquire, by mutual agreement, the interest or licence in Long Lake #58 First Nation Land rather than by Expropriation.

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Interests and Licences that may be Expropriated

- 17.2 An Interest or Licence in Long Lake #58 First Nation Land may only be Expropriated by Long Lake #58 First Nation for Community Purposes in accordance with the *Framework Agreement* and any Land Law enacted for the purpose of establishing the rights and procedures for Expropriations.

Community Purposes

- 17.3 An Expropriation for a Community Purpose may include 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 Expropriations in accordance with this *Land Code* and the *Framework Agreement*, Council shall enact a Land Law respecting the rights and procedures for Expropriations, including provisions respecting:

- a) the taking of possession of the Interest or Licence;
- b) transfer of the Interest or Licence;
- c) notice of Expropriation and service of the notice of Expropriation;
- d) entitlement to compensation;
- e) determination of the amount of compensation; and
- f) the method of payment of compensation.

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Notification

- 17.5 In the case of an Expropriation of a Member's Interest or Licence in Land, Long Lake #58 First Nation shall, in accordance with its Land Laws and the *Framework Agreement*, serve reasonable notice of the Expropriation on each affected holder of the Interest or Licence to be Expropriated within a reasonable time prior to the release of the public report referred to in section 17.6.

Public Report

- 17.6 Before Long Lake #58 First Nation decides to Expropriate an Interest or Licence, it shall make and post 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 Long Lake #58 First Nation Land is not subject to Expropriation by Long Lake #58 First Nation.

Compensation for Rights and Interests

- 17.8 Long Lake #58 First Nation shall, in accordance with its Land Laws and the *Framework Agreement*, pay fair and reasonable compensation to the holders of the Interest or Licence to be Expropriated.

Compensation Calculations

- 17.9 Long Lake #58 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*, R.S.C., 1985, c. E-21.

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Market Value

17.10 The "market value" is equal to the amount that would have been paid for the Interest or Licence if it had been sold on Long Lake #58 First Nation Land 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 Long Lake #58 First Nation to Expropriate shall be determined by neutral evaluation, in the same manner as provided in Part IX (9) 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 section Part IX (9) 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.

Date of Expropriation

17.13 No Expropriation of an Interest or Licence in Long Lake #58 First Nation Land or in any building or other structure on Long Lake #58 First Nation Land by Long Lake #58 First Nation shall take effect earlier than:

- a) the date the notice of Expropriation is registered in the First Nations Land Registry; or
- b) thirty (30) days after the day the last copy of the notice is served on the holder of the Interest or Licence.

18. Voluntary Land Exchanges and Protection

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Conditions for a Land Exchange

18.1 Long Lake #58 First Nation may agree with another party to exchange a parcel of Long Lake #58 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 the required community approval in accordance with Part 3 of this *Land Code*.

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 Long Lake #58 First Nation Land to be exchanged;

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- b) it shall be at least comparable to the appraised value of the Long Lake #58 First Nation Land; and
- c) it shall become a reserve and Long Lake #58 First Nation Land subject to this *Land Code*.

Negotiators

18.4 The person(s) who will have authority to negotiate a land exchange agreement on behalf of the Long Lake #58 First Nation shall be designated by Band Council Resolution.

Additional Land

18.5 Long Lake #58 First Nation may negotiate to receive other compensation, such as money, or other parcels of land, in addition to the parcel referred to in section 18.1 which is intended to become a reserve. Such other parcels of land may be held by the Long Lake #58 First Nation in fee simple or some other manner.

Federal Consent

18.6 Before the Long Lake #58 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) description of the Long Lake #58 First Nation Land to be exchanged;
- b) description of the land to be received in the exchange;
- c) description of any other compensation to be received;
- d) report of a certified land appraiser setting out that the conditions in section 18.3 b) have been met;
- e) copy or summary of the exchange agreement; and
- f) copy of the consent referred to in section 18.6.

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Process of Land Exchange

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18.8 Any land exchange agreement shall provide that:

- a) the other party to the exchange shall transfer to Canada the title to the land which is to be set apart as a reserve;
- b) Council must pass a Band Council Resolution authorizing Canada to transfer title to the Long Lake #58 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 the separate Long Lake #58 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 Long Lake #58 First Nation and with full indemnification to Long Lake #58 First Nation.

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19. Heritage Sites

Planning, Deletion or Development

19.1 Before the Council authorizes any deletion of or development on a site designated as a Heritage Site under a Land Law or Land use plan, the deletion or development must receive community approval in accordance with Part 3 of this Land Code.

Amendment to Law or Land Use Plan

19.2 No amendment may be made to a Land Law or Land use plan to delete or develop a Heritage Site or remove Heritage Site designation unless the amendment receives community approval in accordance with Part 3 of this Land Code.

Protection of Heritage Sites

19.3 Subject to the provisions of this Land Code, Council in consultation with the Lands Committee, shall develop and enact Land Laws, policies and or procedures regarding the protection of Heritage Sites.

PART 5 CONFLICTS OF INTEREST AND FINANCIAL ACCOUNTABILITY

20. Conflict of Interest or Appearance of Conflict of Interest

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Application of Rules

20.1 The rules in section 20.2 apply to the following persons:

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- a) each member of Council who is dealing with any matter before Council that is related to Long Lake #58 First Nation Land;
- b) each person who is an employee of the Long Lake #58 First Nation dealing with any matter that is related to Long Lake #58 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 Long Lake #58 First Nation dealing with any matter that is related to Long Lake #58 First Nation Land.

Duty to Report and Abstain

20.2 If there is any actual or apparent financial, familial or personal conflict of interest involving the person or his or her immediate family in the matter being with, the person:

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

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- c) shall remove themselves from the proceedings.

Apparent Conflict of Interest

- 20.3 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

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

Community Approval due to Conflict of Interest

- 20.5 If Council is unable to vote on a matter, a proposed Land Law or Band Council Resolution due to a conflict of interest, Council may refer the matter for community approval in accordance with Part 3 of this *Land Code*.

Appointed Body

- 20.6 No Immediate Family 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 Long Lake #58 First Nation Land.

Elected Body

- 20.7 For greater certainty, Council or any other elected board, committee or body is not included under the rule set out in section 20.6.

Disputes

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

Other Laws

- 20.9 For greater certainty, Council in consultation with the Lands Committee, may develop a policy or enact Laws to further implement this section.

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21. Financial Management

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Application

- 21.1 This section applies only to financial matters relating to Long Lake #58 First Nation Land, including natural resources in and of the Land.

Financial Policies

- 21.2 Council may, in accordance with this *Land Code*, develop, adapt or adopt financial management policies, including but not limited to:

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- 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 Long Lake #58 First Nation Land, including natural resources in and of the Land;
- 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;
- f) contract notes, loans and other indebtedness;
- g) establishing fees, fines, charges and levies;
- h) establishing and maintaining confidentiality, records security and document retention; and
- i) any other financial management policy deemed necessary.

Administrative Structure

21.3 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 Long Lake #58 First Nation Land, including natural resources in and of the Land;
- 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.

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22. Annual Report

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Publish Annual Report

22.1 Council, on behalf of the Long Lake #58 First Nation, shall publish an annual report on Land matters.

Contents

22.2 The annual report and any supplementary reports shall include:

- a) an annual review of Long Lake #58 First Nation reserve Land and natural resources management activities;
- b) a copy and explanation of the audit as it applies to Long Lake #58 First Nation Land, including natural resources in and of the Land; and
- c) any other matter as determined by Council or Lands Committee.

23. Access to Information

Access

23.1 Any person may, during normal business hours at the main administrative office of Long Lake #58 First Nation, have reasonable access to:

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

Copies for Members

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

Access to Records

- 23.3 Any person authorized by the Council may, at any reasonable time, inspect the financial records of Long Lake #58 First Nation related to Long Lake #58 First Nation Land.

PART 6 LAND ADMINISTRATION

24. Staff

Administration

- 24.1 Council may assign or delegate administrative authority to the staff to carry out functions necessary for day to day administrative operations of Land, including natural resources in and of the Land.

25. Lands Committee

Lands Committee Established

- 25.1 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 Long Lake #58 First Nation Land;
 - c) recommend Land Laws, Band Council Resolutions, policies and practices respecting Long Lake #58 First Nation Land to Council;
 - d) consult with Members and non-Members on Long Lake #58 First Nation Land issues, and make recommendations on the resolution of those issues to Council;
 - e) oversee Meetings of Members, community approvals and ratification votes; and
 - f) perform such other duties as may be delegated or assigned by Band Council Resolution or Land Law under this *Land Code*.

Process to Implement Land Laws

- 25.2 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.

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Development of Land Related Rules and Procedures

25.3 Within a reasonable time after this *Land Code* takes effect and after the required Meeting of Members is held, the Lands Committee shall 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 Long Lake #58 First Nation Land;
- b) any outstanding issues on the resolution of disputes in relation to Long Lake #58 First Nation Land;
- c) Land use planning and zoning;
- d) section 41 respecting Matrimonial Real Property on Reserve Law and whether any change should be made to the policy upon which that section is based; and
- e) any other matter referred by Council.

Implementation of Policies

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

Internal Procedures

25.5 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.

26. Implementation of the Lands Committee



First Lands Committee

26.1 Immediately upon the coming into effect of this *Land Code*, Council shall select a Lands Committee composed of a maximum of ten (10) Members to serve for a term of up to three (3) years until a policy governing the Lands Committee comes into force. The members of the first Lands Committee shall be appointed by Band Council Resolution and, to the extent possible, among those persons chosen as members of the provisional Lands Committee involved in the elaboration of this Land Code.

Policy Governing Successors to the First Lands Committee

26.2 As soon as possible after the coming into force of this *Land Code* and before the expiration of the three-year term, Council, in consultation with the Lands Committee, shall develop a policy providing for Member 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.

27. Exercise of Duties

Exercising Power, Authority or Discretion to Benefit and Protect Long Lake #58 First Nation

27.1 Any power, authority or discretion exercised by the Council, staff, the Lands Department, or other individual or body established or authorized under this *Land Code* shall be exercised on behalf of, and for the benefit and protection of Long Lake #58 First Nation and its Members.

PART 7 INTERESTS AND LICENCES IN LAND

28. Revenue from Land, including Natural Resources

Determination of Fees and Rent

- 28.1 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 Long Lake #58 First Nation Land;
 - b) the fees for services provided in relation to any Long Lake #58 First Nation Land; and
 - c) the fees and royalties to be paid for the taking of natural resources from Long Lake #58 First Nation Land.

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29. Registration of Interests and Licences

Enforcement of Interests and Licences

- 29.1 An Interest or Licence in Long Lake #58 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 Long Lake #58 First Nation Lands Register.

Registration of Consent and Approval

- 29.2 An instrument granting an Interest or Licence in Long Lake #58 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.

Instrument Void

- 29.3 An instrument registered in the First Nation Lands Register and the separate Long Lake #58 First Nation Lands Register which does not include the certificate referred to in section 29.2 is void.

Duty to Deposit: Council

- 29.4 Council shall ensure that an original copy of the following instruments shall be deposited in the First Nation Lands Register and the separate Long Lake #58 First Nation Lands Register:
- a) any grant of an Interest or Licence in Long Lake #58 First Nation Land;
 - b) any transfer or assignment of an Interest or Licence in Long Lake #58 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*.

Duty to Deposit: Members

- 29.5 Every person who receives, from a Member, an Interest or Licence in Long Lake #58 First Nation Land shall deposit an original copy of the relevant instrument with the Long Lake #58 First Nation for deposit in the separate Long Lake #58 First Nation Lands Register.

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30. Separate Long Lake #58 First Nation Lands Register

Maintain a Separate Long Lake #58 First Nation Lands Register

- 30.1 Council shall establish and maintain a separate Long Lake #58 First Nation Lands Register and make Land Laws with respect to the Lands Register and the effect of registering documents in the separate Long Lake #58 First Nation Lands Register and the First Nation Lands Register.

Priority

- 30.2 In the event of an inconsistency or a conflict between the separate Long Lake #58 First Nation Lands Register and the First Nation Lands Register, the separate Long Lake #58 First Nation Lands Register prevails to the extent of the inconsistency or conflict.

Interim Measures

- 30.3 From the date of the coming into effect of this *Land Code* until such time that a separate Long Lake #58 First Nation Lands Register is established, registration in the First Nation Lands Register shall suffice.

31. Limits on Interests and Licences

All Dispositions In Writing

- 31.1 An Interest or Licence in Long Lake #58 First Nation Land may only be created, granted, disposed of, assigned or transferred by a written instrument, in accordance with this *Land Code* and any relevant Land Law. For example, instruments include certificates of possession, certificates of allotment, leases and permits.

Standards

- 31.2 The Council may establish mandatory standards, criteria and forms for Interests or Licences in Long Lake #58 First Nation Land.

Improper Transactions Void

- 31.3 Any deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which Long Lake #58 First Nation, a Member or any other person purports to grant, dispose of, transfer or assign an Interest or Licence in Long Lake #58 First Nation Land after the date this *Land Code* takes effect is void if it contravenes this *Land Code*.

32. Existing Interests and Licences

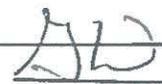
Continuation of Existing Interests and Licences

- 32.1 Any Interest or Licence in Long Lake #58 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.

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Voluntary Exchange

32.2 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

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

33. New Interests or Licences

Authority to Make Dispositions

33.1 Subject to section 13.1, Council may, on behalf of Long Lake #58 First Nation, grant:

- a) Interests and Licences in Long Lake #58 First Nation Land; and
- b) Licences to take resources from Long Lake #58 First Nation Land, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances.

Conditional Grant

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

Role of the Lands Committee

33.3 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.

34. Interests of Non-Members

Grants to Non-Members

34.1 A transfer or other disposition of all or any part of an Interest or Licence in Long Lake #58 First Nation Land to a person who is not a Member shall not be effective unless and until it is confirmed by a Band Council Resolution, adopted with the advice of the Lands Committee.

35. Interests of Members

Application

35.1 For greater certainty, Interests granted previously to Members under the *Indian Act*, including through certificates of possession, shall continue to exist after the coming into force of this *Land Code*.

36. Allocation of Land to Members

Policies and Procedures for Allocation of Land

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36.1 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 of Land to Members

36.2 Allocation of Land refers to the granting of an Interest in a parcel of Land and could include, at the discretion of the Long Lake #58 First Nation:

- a) permanent possession of the parcel of Land;
- b) benefit from the resources;
- c) subsidiary Interests and Licences such as right of way, lease, permit, easement;
- d) the right to transfer, devise or otherwise dispose of the parcel of Land to another Member;
- e) a Licence to take resources from the Land; and
- f) any other right or any restriction consistent with this Land Code and land Laws.

Powers of the Council

36.3 Council may, in accordance with this Land Code:

- a) allocate Land to Members; and
- b) issue the appropriate legal instrument recognizing such allocation, such as a certificate of possession or a certificate of entitlement, to a Member for Land allocated to that Member, specifying the rights and restrictions attached to that allocation.

No Allocation of Land to Non-Members

36.4 A person who is not a Member is not entitled to be allocated Land or to hold a permanent Interest in Long Lake #58 First Nation Land.

37. Transfer and Assignment of Interests

Transfer of Member Interests

37.1 A Member may transfer or assign an Interest in Long Lake #58 First Nation Land to another Member without community approval or the consent of Council.

Consent of Council

37.2 There shall be no transfer or assignment of an Interest in Long Lake #58 First Nation Land without the written consent of Council, except for:

- a) transfers under section 37.1;
- b) transfers that occur by operation of law, including transfers of estate by testamentary disposition; and
- c) transfers in accordance with the Matrimonial Property on Reserve Law enacted pursuant to section 41.

38. Limits on Mortgages and Seizures

Protections

38.1 In accordance with the *Framework Agreement*, the following provisions of the *Indian Act*, as amended from time to time, continue to apply to the Long Lake #58 First Nation Land:

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- a) section 29;
- b) section 87;
- c) sub-section 89(1); and
- d) sub-section 89(2).

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Mortgage of Allocated Land

38.2 The Interest of a Member in Long Lake #58 First Nation Land may be subject to a mortgage or charge, but only to a Member or, the Long Lake #58 First Nation with the express written consent of Council.

Mortgages of Leasehold Interest with Consent

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

Time Limit

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

Default in Mortgage

38.5 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 written consent of Council;
- b) the charge or mortgage was registered in the separate Long Lake #58 First Nation Lands Register and the First Nation Lands Register; and
- c) a reasonable opportunity to redeem the charge or mortgage is given to Council on behalf of Long Lake #58 First Nation.

Power of Redemption

38.6 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

38.7 Council may, by Band Council Resolution, waive the requirements of section 38.6 for any charge or mortgage of a leasehold Interest or Licence.

39. Residency and Access Rights

Rights of Residence

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39.1 The following persons have a right to reside on Long Lake #58 First Nation Land:

- a) Members and their Spouses and children;
- b) Members with a registered Interest in Long Lake #58 First Nation Land;

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- 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 Council, Lands Committee or by a Long Lake #58 First Nation Land Law.

Rights of Access

39.2 The following persons have a right of access to Long Lake #58 First Nation Land:

- a) lessees and their invitees;
- b) a person granted a right of access under a permit;
- c) Members and their Spouses, children and invitees;
- d) a person who is authorized by a government body or any other public body, established by or under an enactment of Long Lake #58 First Nation, Parliament or the province of Ontario to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey provided that the person received written authorization from Council; or
- e) a person authorized in writing by Council or Lands Committee or by a Long Lake #58 First Nation Land Law.

Public Access

39.3 Any person may have access to Long Lake #58 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; and
- c) no Band Council Resolution has been enacted barring that person.

Use of Roads

39.4 Any person having a right of access to Long Lake #58 First Nation Land may have the right of access to Long Lake #58 First Nation public roads, subject to this *Land Code* and Land Laws.

Trespass

39.5 Any person, who resides on, enters or remains on Long Lake #58 First Nation Land, other than in accordance with a residence or access right under this *Land Code*, is guilty of an offence.

Civil Remedies

39.6 All civil remedies for trespass are preserved.

40. Transfers on Death

Indian Act Application

40.1 Until Long Lake #58 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 Long Lake #58 First Nation Land.

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Registration of Transfer

- 40.2 A person who receives an Interest in Long Lake #58 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 Long Lake #58 First Nation Lands Register, to the extent that they are not inconsistent with this *Land Code*.

Disposition of Interest

- 40.3 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 Long Lake #58 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 Long Lake #58 First Nation.

41. Matrimonial Real Property on Reserve Law**Development of Rules and Procedures**

- 41.1 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 Long Lake #58 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

- 41.2 The rules and procedures contained in the Matrimonial Real Property on Reserve Law shall be developed by the Lands Committee after the required Meeting of Members is held.

Enactment Deadline

- 41.3 The Matrimonial Real Property on Reserve Law shall be enacted within twelve (12) months from the date this *Land Code* takes effect.

General Principles

- 41.4 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 Long Lake #58 First Nation Land or a charge against a permanent Interest in Long Lake #58 First Nation Land.

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Immediate Rules

- 41.5 In order that Members benefit immediately from the legislative authority of Council to address the issue of Matrimonial Real Property on Reserve 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

- 41.6 As this law would be enacted before the work of the Lands Committee and the Meeting of Members is held, 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

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42. Purpose

Intent

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- 42.1 The intent of this Part is to ensure that all persons entitled to possess, reside upon, use or otherwise occupy Long Lake #58 First Nation Land do so harmoniously with due respect to the rights of others and of Long Lake #58 First Nation and with access to Long Lake #58 First Nation procedures to resolve disputes.

Purpose

- 42.2 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.

43. Disputes

Dispute Prevention

- 43.1 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*

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

Decision of Council or Lands Committee

- 43.3 If a Member, or a non-Member with an Interest in Long Lake #58 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 Dispute Resolution Panel.

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Settle a Dispute

43.4 Nothing in this Part shall be construed to limit the ability of any person to reach agreement to settle a dispute without recourse to this Part.

Settlement Agreement

43.5 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

43.6 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.

Modification of Rules

43.7 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 Dispute Resolution Panel in writing.

Civil Remedies

43.8 Notwithstanding section 43.6 and 43.7, 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

43.9 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.

44. Processes

Staged Processes

44.1 Long Lake #58 First Nation intends that a dispute in relation to Long Lake #58 First Nation Land, except as otherwise provided, may progress through the following stages provided for in this Part:

- a) facilitated discussions;
- b) mediation;
- c) negotiation; and
- d) final arbitration by the Dispute Resolution Panel.

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Procedure to File a Dispute

44.2 A person who wishes to resolve a dispute with another person or Long Lake #58 First Nation in relation to the use or occupation of Long Lake #58 First Nation Land may file a written notice of dispute setting out:

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- 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

44.3 Facilitated discussions, mediations and negotiations may be suspended upon any of the following occurrences:

- a) the parties reach an agreement;
- b) one (1) of the parties refuses to continue with the facilitated discussion, mediation or negotiation;
- 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

44.4 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 is Not Available

44.5 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 Long Lake #58 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

44.6 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.

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Rules and Procedures

44.7 Council may prescribe such laws, Band Council 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) facilitated discussions, mediations, negotiations 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;

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- 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 Dispute Resolution Panel;
- g) implementing recommendations of the Dispute Resolution Panel made under section 48.2; and
- h) any other matter necessary to give effect to this Part.

Waiver of Liability

44.8 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.

45. Roster Dispute Resolution Panel Established

Appointment to Roster Dispute Resolution Panel

45.1 The Roster Dispute Resolution Panel shall be composed of a maximum of twenty (20) panelists.

Ineligible

45.2 Notwithstanding section 20 above, in order to avoid conflict of interest, no Council member, or employee of Long Lake #58 First Nation or person already serving on another board, body, or committee related to Long Lake #58 First Nation Land shall sit on the Roster Dispute Resolution Panel.

Representation

45.3 Council shall appoint the Roster Dispute Resolution panelists, and shall ensure that, where possible, the Roster Dispute Resolution panelists represent the various elements of the community.

Rules of the Roster Dispute Resolution Panel

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

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46. Impartiality of the Dispute Resolution Panel

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Duty to Act Impartially

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

Offence

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

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Rejection of Application

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

Rules of Conduct for Parties to Dispute

- 46.4 The Roster Dispute Resolution Panel shall establish rules of conduct for the parties to a dispute.

47. Arbitration by the Dispute Resolution Panel

Disputes

- 47.1 Any matter or dispute related to Long Lake #58 First Nation Land shall be submitted to the Lands Department but that such matter or dispute shall then be referred to the Roster Dispute Resolution Panel for resolution.

Dispute Resolution Panel of Five (5) Chosen from Roster Dispute Resolution Panel

- 47.2 Disputes referred to the Roster Dispute Resolution Panel are to be heard by five (5) panelists chosen as follows:
 - a) two (2) panelists are 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 Dispute Resolution Panel; and
 - c) in the case of situations not adequately covered by section a) or b), all five (5) panelists shall to be chosen by the Roster Dispute Resolution Panel as a whole.

Dispute Resolution Panel Established

- 47.3 The Dispute Resolution Panel is hereby established with jurisdiction to resolve disputes in relation to Long Lake #58 First Nation Land. For greater certainty, disputes outlined in section 44.5 shall not be heard by the Dispute Resolution Panel.

48. Powers of the Dispute Resolution Panel

Power of the Dispute Resolution Panel

- 48.1 The Dispute Resolution 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 Long Lake #58 First Nation Land, the registration of an Interest in Long Lake #58 First Nation Land, and the allocation of the costs of any incidental measures to be taken to give effect to such an order.

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Recommendations by the Dispute Resolution Panel

48.2 In addition to making a determination under section 48.1, the Dispute Resolution 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

48.3 The Dispute Resolution 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 Long Lake #58 First Nation Land.

Professional Services

48.4 The Dispute Resolution 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

48.5 Decisions of the Dispute Resolution Panel shall be in writing, signed by the person chairing the Dispute Resolution Panel or by an officer designated by the Dispute Resolution 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

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

PART 9 OTHER MATTERS

49. Liability

Liability Coverage

49.1 Council shall arrange, maintain and pay insurance coverage for its officers and employees engaged in carrying out any matter related to Long Lake #58 First Nation Land to indemnify them against personal liability arising from the performance of those duties.

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Extent of Coverage

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

50. Offences

Application of the *Criminal Code*

50.1 Unless some other procedure is provided for by a Long Lake #58 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 Long Lake #58 First Nation Land Law.

Fines and Imprisonment

50.2 Any person who commits an offence under this *Land Code* or a Long Lake #58 First Nation Land Law is liable to a fine not to exceed \$5,000 and to a term of imprisonment not to exceed six (6) months or to both fine and imprisonment, provided however, that offences related to Long Lake #58 First Nation environmental protection laws may carry penalties consistent with similar environmental protection laws in force in Canada.

Penalties in Law

50.3 A Long Lake #58 First Nation Land Law may provide for a penalty which is different than the penalties referred to in sections 50.1 and 50.2.

51. Revisions to the *Land Code*

Revisions

51.1 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 Long Lake #58 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 Long Lake #58 First Nation without changing the substance of the *Land Code*; and
- f) correct editing, grammatical or typographical errors.

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52. Commencement

Preconditions

- 52.1 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

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

VERIFIED

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DATE


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