

**LHEIDLI T'ENNEH FIRST NATION**

**LAND CODE**

**RATIFIED  
October 25, 2000**

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**LHEIDLI T'ENNEH FIRST NATION LAND CODE**

**PREAMBLE**

**WHEREAS** the Lheidli T'enneh aspire to move ahead as an organized, highly-motivated, determined and self-reliant nation;

**AND WHEREAS** the Lheidli T'enneh are proud, united people whose purpose is to establish a future that will ensure a high quality of life while flourishing with the environment;

**AND WHEREAS** Lheidli T'enneh traditions and cultural beliefs are the driving force of our success and destiny;

**AND WHEREAS** the Lheidli T'enneh First Nation has entered into the *Framework Agreement on*

*First Nation Land Management* with Canada on February 12, 1996, as amended, and as ratified on behalf of the Government of Canada by the *First Nations Land Management Act*, S.C. 1999, c. 24;

**NOW THEREFORE, this Lheidli T'enneh First Nation Land Code is hereby enacted as the fundamental land law of the Lheidli T'enneh First Nation.**

## PART 1 PRELIMINARY MATTERS

### 1. Title

Title

1.1 The title of this enactment is the *Lheidli T'enneh First Nation Land Code*.

### 2. Interpretation

Definitions

2.1 The following definitions apply in this *Land Code*:

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

"Community Land" means any First Nation Land in which all Members have a common interest;

"Council" means the Chief and Councilors of the First Nation or any successor elected government of the Lheidli T'enneh First Nation;

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

"Extended Family", in respect of a person, means the person's Immediate Relatives, grandparent, uncle, aunt, cousin or grandchild;

"First Nation" means the Lheidli T'enneh First Nation;

"First Nation Land" means any portion of a First Nation reserve that is subject to this *Land Code*;

"First Nations Land Register" means the register maintained by the Department of Indian Affairs and Northern Development under the *Framework Agreement*;

"*Framework Agreement*" means the *Framework Agreement on First Nation Land Management* entered into between the Minister of Indian Affairs and Northern Development and fourteen First Nations, including the Lheidli T'enneh First Nation, on February 12, 1996, as amended;

"Immediate Relatives", in respect of a person, means the person's parent, sister, brother, child or Spouse;

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

"Law" means a Law enacted pursuant to this *Land Code*;

"Lheidli T'enneh Land Register" means the register maintained by the First Nation under section 29.1;

"Meeting of Members" means a meeting under Part 3 of this *Land Code*;

"Member" means a person whose name appears on the Lheidli T'enneh First Nation Band Membership List;

"Panel" means the Dispute Resolution Panel established under section 40.1 of this *Land Code*;

"Ratification Vote" means a vote under section 14 of this *Land Code*;

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

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

"Transfer Agreement" means the Individual First Nation Agreement made between the First Nation and Her Majesty in right of Canada in accordance with section 6.1 of the *Framework Agreement*, dated August 25, 2000.

#### Paramountcy

2.2 If there is an inconsistency or conflict between this *Land Code* and any other enactment of the First Nation, this *Land Code* prevails to the extent of the inconsistency.

#### Culture and traditions

2.3 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 First Nation, unless otherwise provided.

#### Non-abrogation

2.4 This *Land Code* does not abrogate or derogate from any Aboriginal, treaty or other rights or freedoms that pertain now or in the future to the First Nation or its Members.

#### Fair interpretation

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

#### Fiduciary Relationship

2.6 This *Land Code* does not abrogate the fiduciary relationship between Her Majesty the Queen in Right of Canada, the First Nation and its Members.

#### Lands and interests affected

2.7 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, and renewable and non-renewable natural resources in and of that land, to the extent that these are under the jurisdiction of Canada or the First Nation; and

(b) all the interests and licenses granted to the First Nation by Her Majesty in right of Canada listed in the Transfer Agreement.

### **3. Authority to Govern**

#### Origin of authority

3.1 By enacting this *Land Code* the First Nation is giving effect to its aboriginal title to that portion of its territories comprised of First Nation Land.

#### Flow of authority

3.2 The authority of the First Nation to govern its lands and resources flows from its aboriginal title and inherent right of self-government.

### **4. Purpose**

#### Purpose

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

#### Ratification

4.2 The *Framework Agreement* is ratified and confirmed by the First Nation when this *Land Code* takes effect.

### **5. Description of First Nation Land**

#### First Nation Land

5.1 The First Nation Land that is subject to this *Land Code* is:

- (a) Shelley Indian Reserve #2, Indian Land Registry No. 07477, Cariboo Land District;
- (b) Clesbaoneecheck Indian Reserve #3; Indian Land Registry No. 07478, Cariboo Land District; and
- (c) Salaquo Indian Reserve #4, Indian Land Registry No. 07479, Cariboo Land District.

#### Excluded Lands

5.2 Notwithstanding section 5.1, the land described as follows is excluded from the application of this *Land Code* and may only be included after it is cleaned up and a full environmental assessment

declares it to be free of environmental hazard and safe for community or other use, or it is designated as a reserve, as the case may be:

Fort George Cemetery, Indian Land Registry No. 07476, Cariboo Land District, Lot 343, Block Z within the City of Prince George.

#### Additional lands

5.3 The following lands may be made subject to this *Land Code* if they are, or become, reserve lands and the following conditions are met:

(a) any lands owned jointly by the First Nation and another First Nation, when both First Nations agree upon a joint management scheme for those lands; and

(b) any land or interest acquired by the First Nation after this *Land Code* takes effect, whether by land claim, purchase or other process, when an environmental audit declares it free of environmental hazard and safe for community use.

#### Land exchange

5.4 For greater certainty, section 5.3 does not apply to land acquired by land exchange in accordance with section 17.

#### Inclusion of land or interest

5.5 When the relevant conditions in sections 5.2 and 5.3 are met, Council shall call a Meeting of Members under section 11(b) and, after receiving their input, may by enacting a Law declare the land or interest to be subject to this *Land Code*.

## PART 2 FIRST NATION LEGISLATION

### 6. Law-Making Powers

Council may make Laws

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

- a. the development, conservation, protection, management, use and possession of First Nation Land;
- b. interests and licenses in relation to First Nation Lands; and
- c. Any matter necessary or ancillary to Laws respecting First Nation Land.

#### Examples of Laws

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

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

## **7. Law-Making Procedure**

### Introduction of Laws

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

- (a) the Chief;
- (b) a Councilor; or
- (c) a representative of the Lands Authority.

### Tabling and posting of proposed Laws

7.2 Before a proposed Law may be enacted by Council, the proposed Law shall be:

- (a) tabled at a meeting of Council held at least 28 days before the Law is to be enacted;
- (b) deposited with the Chair of the Lands Authority at least 21 days before the Law is to be enacted; and
- (c) posted in public places on First Nation Land at least 21 days before the Law is to be enacted.

### Urgent matters

7.3 Council may enact a Law without the preliminary steps required under section 7.2, if Council is of the opinion that the Law is needed urgently to protect First Nation Land or Members.

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

### Approval of Law by Council

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

Members.

#### Certification of Laws

7.6 The original copy of any Law or Resolution concerning First Nation Land shall be signed by a quorum of Council present at the meeting at which it was enacted.

### **8. Publication of Laws**

#### Publication

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

#### Posting Laws

8.2 Within 7 days after a Law has been enacted, Council shall post a copy of the Law in the administrative offices of the First Nation.

#### Registry of Laws

8.3 Council shall cause to be kept, at the administrative offices of the First Nation, 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 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 taking effect

9.1 A Law enacted by Council takes effect on the date of its enactment or such later date as may be specified by the Law.

## **PART 3 COMMUNITY APPROVALS**

### **10. Rights of Eligible Voters**

#### Rights of eligible voters

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

### **11. Community Input**



## Prior meeting of Members

11.1 Council shall convene a Meeting of Members to receive their input prior to the introduction of a Law:

- (a) respecting a community plan or subdivision plan;
- (b) declaring land or an interest referred to in section 5.2 or 5.3 to be subject to this *Land Code*;
- (c) affecting a heritage site or an environmentally sensitive property;
- (d) respecting environmental assessment;
- (e) respecting the transfer or assignment of interests in land;
- (f) respecting spousal property under section 39;
- (g) respecting the rate and criteria for the payment of fees or rent for land; and
- (h) respecting any other matter or class of matters that Council, by Resolution, declares to be subject to this section.

## Process to Implement Laws

11.2 Subject to section 39, Council shall, in consultation with the Lands Authority and within a reasonable time after this *Land Code* takes effect, establish a community process to develop and implement the Laws referred to in section 11.1.

## **12. Community Approval at a Meeting of Members**

### Community approval by meeting

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

- (a) subject to section 16, any land use plan or amendment to a land use plan;
- (b) any grant or disposition of an interest or license in First Nation Land;
- (c) any renewal of a grant or disposition of an interest or license in First Nation Land;
- (d) any grant or disposition of any natural resources on First Nation Land;
- (e) a charge or mortgage of a leasehold interest;
- (f) any Law enacted under section 39;
- (g) any amendment to this *Land Code*; and

(h) any Law or class of Law that Council, by Resolution, declares to be subject to this section.

### **13. Procedure at a Meeting of Members**

#### Voting

13.1 Decisions at a Meeting of Members shall be made by a majority vote of the Eligible Voters present at the meeting.

#### Notice of meeting

13.2 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 on at the meeting.

#### Manner of notice

13.3 Written notice of a Meeting of Members shall be given to the Members by:

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

#### Who may attend

13.4 A Member may attend a Meeting of Members.

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

#### Quorum

13.6 The quorum for a Meeting of Members under this *Land Code* is twenty-five percent of the Eligible Voters.

#### Other meetings

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

#### Other Laws

13.8 Subject to sections 13.1 through 13.7, Council may make Laws respecting Meetings of Members.

#### **14. Ratification Votes**

Community approval  
by Ratification Vote

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

- (a) any development on a heritage site designated in a land use plan;
- (b) any voluntary exchange of First Nation Land;
- (c) any amendment to the Transfer Agreement that reduces the amount of funding provided by Canada; and
- (d) any Law or class of Law that Council, by Resolution, declares to be subject to this section.

Transfer Agreement  
with Canada

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

Ratification Process

14.3 Any Ratification Vote required under this *Land Code* shall be conducted in substantially the same manner as the *Lheidli T'enneh First Nation Community Ratification Process* which was used to ratify this *Land Code*.

No verifier

14.4 A verifier is not required in a Ratification Vote.

Minimum requirements  
for approval

14.5 A matter shall be considered approved by a Ratification Vote if a majority 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.

### **PART 4 PROTECTION OF LAND**

#### **15. Expropriation**

Rights and interest  
that may be expropriated

15.1 An interest or license in First Nation Land or in any building or other structure on such land may only be expropriated by the First Nation in accordance with the *Framework Agreement* and any Law enacted in accordance with section 15.3.

#### Community purposes

A community expropriation may only be made for a necessary community purpose or works of the First Nation, including but not limited to a fire hall, sewage or water treatment facility, community center, public works, road, school, day-care facility, 15.2 hospital, health-care facility and retirement homes.

#### Expropriation Laws

15.3 Before proceeding to make a community expropriation in accordance with this *Land Code*, Council shall enact a Law respecting the rights and procedures for community expropriations, including provisions respecting:

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

#### Public report

15.4 Before the First Nation expropriates an interest or license, it shall make a public report on the reasons for the expropriation.

#### Rights that may not be expropriated

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

#### Acquisition by mutual agreement

15.6 The right of the First Nation to expropriate can be exercised only after a good faith effort to acquire, by mutual agreement, the interest or license in First Nation Land.

#### Community approval

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

Compensation for  
rights and interests

15.8 The First Nation 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 license to be expropriated; and
- (b) pay fair and reasonable compensation to the holder of the interest or license being expropriated.

Compensation  
calculations

15.9 The total value of the compensation under section 15.8(b) shall be based on:

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

Market value

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

Neutral evaluation to  
resolve disputes

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

Arbitration to resolve  
disputes

15.12 The Resolution of the following disputes shall be determined by arbitration in the same manner as provided in Part IX of the *Framework Agreement*:

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

## 16. Heritage Sites

### Community approval

16.1 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 by a Ratification Vote.

## 17. Voluntary Land Exchanges and Protections

### Conditions for a land exchange

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

### No effect

17.2 A land exchange is of no effect unless it receives community approval by a Ratification Vote under section 14.1(b).

### Land to be received

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

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

### Negotiators

17.4 Any person who negotiates a land exchange agreement on behalf of the First Nation must be designated by Resolution.

### Additional land

17.5 The First Nation may receive other compensation, such as money or other land in addition to the land referred to in section 17.3, and any other land may be held by the First Nation in fee simple or other manner.

### Federal consent

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

- (a) consents to set apart as a reserve the land to be received in exchange, 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

17.7 At such time as negotiation of a land exchange agreement is concluded, and at least 21 days before the Ratification Vote provided in section 17.2, Council or the Lands Authority shall provide the following information to the Members:

- (a) a description of the First Nation Land to be exchanged;
- (b) a description of the land to be received by the First Nation;
- (c) a description of any other compensation to be exchanged;
- (d) a report of a certified land appraiser stating that the conditions in sections 17.3(a) and (b) have been met;
- (e) a copy of the exchange agreement; and
- (f) a copy of the statement referred to in section 17.6.

## Process of land exchange

17.8 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 First Nation 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 First Nation Lands Register.

## **PART 5 ACCOUNTABILITY**

### **18. Conflict of Interest**

#### Application of rules

18.1 The rules in section 18.2 apply to the following persons:

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

#### Duty to report and abstain

18.2 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 the interest to the Council, board, committee or other body as the case may be;
- (b) take no part in any deliberations on that matter; and
- (c) not vote on that matter.

#### Common interests

18.3 Section 18.2 does not apply to any interest that is held by a Member in common with every other Member.

#### Meeting of Eligible Voters

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

#### Inability to act

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

#### Specific Conflict Situations

18.6 Not more than two members from the same Extended Family may be members of a board, committee or other body dealing with any matter that is related to First Nation Land.

18.7 For greater certainty, section 18.6 does not apply to Council.

#### Disputes

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

#### Other Laws

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

### **19. Financial Management**

#### Application

19.1 This section and sections 20, 21, 22 and 23 apply only to matters relating to First Nation Land.



#### Establishment of bank accounts

19.2 Council shall maintain one or more financial accounts in a financial institution and shall deposit in those accounts:

- (a) transfer payments received from Canada for the management and administration of First Nation Land;
- (b) moneys received by the First Nation from the grant or disposition of any interests or licenses in First Nation Land;
- (c) all fees, fines, charges and levies collected under a Law or land Resolution;
- (d) all capital and revenue moneys received from Canada from the grant or disposition of any interests and licenses in First Nation Land; and
- (e) any other land revenue received by the First Nation.

#### Signing officers

19.3 Council shall authorize at least three persons, one of whom shall be a member of Council, one of whom shall be a member of the Lands Authority and one of whom may be a person employed as Land Manager to sign cheques and other bills of exchange or transfer drawn on the accounts referred to in section 19.2.

#### Two signatures

19.4 A cheque or other bill of exchange or transfer drawn on an account referred to in section 19.2 must be signed by two signing officers.

#### Fiscal year

19.5 The fiscal year of the First Nation shall begin on April 1 of each year and end on March 31 of the following year.

#### Adoption of budget

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

19.7 Prior to adopting a budget referred to in section 19.7, Council shall consult with the Lands Authority.

#### Procedure

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

(a) explain 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 the First Nation for inspection by Members.

If no budget

19.9 If Council fails to adopt a land management budget for a fiscal year prior to the beginning of that fiscal year, the budget and any supplementary budgets of the previous fiscal year shall apply until a new budget is adopted.

Budget rules

19.10 Council may make rules respecting the preparation and implementation of land management budgets.

Expenditures

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

Other Laws and policies

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

## **20. Financial Records**

Financial records

20.1 The First Nation shall keep financial records in accordance with generally accepted accounting principles.

Offences

20.2 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 the First Nation; or

(b) has control of the financial records of the First Nation and fails to give all reasonable assistance to anyone exercising their right to inspect those financial records.

Preparation of financial statement

20.3 Within 90 days after the end of each fiscal year, Council on behalf of the Lheidli T'enneh First Nation shall prepare a financial statement in comparative form, containing at a minimum:

(a) a balance sheet;

(b) a statement of revenues and expenditures and a comparison of these with the amounts stated in the land management budget and any supplementary budget; and

(c) any other information necessary for a fair presentation of the financial position of Lheidli T'enneh First Nation.

Consolidated  
accounts

20.4 The accounting, auditing and reporting requirements of this *Land Code* may be consolidated with, other accounts, audits and reports of Lheidli T'enneh First Nation.

## 21. Audit

Appointment of  
auditor

21.1 For each fiscal year, a duly accredited auditor shall be appointed by Council to audit the financial records of the First Nation.

Holding office

21.2 The auditor appointed under this section shall hold office until reappointed or replaced.

Vacancy in office

21.3 Where a vacancy occurs during the term of an auditor, Council shall, without delay, appoint a new auditor for the remainder of the former auditor's term.

Remuneration

21.4 The auditor's remuneration shall be fixed by Council.

Duty of auditor

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

Access to records

21.6 In order to prepare the report on the First Nation's financial statement, the auditor may at all

reasonable times inspect any financial records of Lheidli T'enneh First Nation and the financial records of any person or body who is authorized to administer land-related money on behalf of the First Nation.

Explanation of  
auditors report

21.7 Council shall present the auditor's report to the Members at a Meeting of Members.

21.8 Nothing precludes an auditor appointed for other First Nation audits from being appointed under section 21.1.

## **22. Annual Report**

Publish annual report

22.1 Council shall, within 30 days of receiving an audit report under section 21.5, prepare and table with the Lands Authority, an annual report on First Nation Land management which includes:

- (a) an annual review of land management activities;
- (b) a copy and explanation of the audit report as it applies to First Nation Lands; and
- (c) such other matters as may be determined by Council or the Lands Authority.

## **23. Access to Information**

Access

23.1 Any person may, during normal business hours at the main administration office of the First Nation, have reasonable access to the register of Laws.

Copies for Members

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

## **PART 6 LAND ADMINISTRATION**

## **24. Lands Authority**

Lands Authority  
established

24.1 A Lands Authority is hereby established to:

- (a) assist with the development of the land administration system;

- (b) advise Council and its staff on matters respecting First Nation Land;
- (c) recommend to Council Laws, Resolutions, policies and procedures respecting First Nation 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; and
- (f) oversee community approvals under this *Land Code*.

#### Development of land related rules and procedures

24.2 Within a reasonable time after this *Land Code* takes effect, Council shall, in consultation with the community and the Lands Authority, establish rules and procedures that address the following matters:

- (a) the process and criteria for granting interests in First Nation Land;
- (b) the process and criteria for appeal from a decision to grant or refuse to grant interests in First Nation Land;
- (c) environmental protection and assessment in relation to First Nation Land;
- (d) resolution of disputes in relation to First Nation Land;
- (e) land use planning and zoning; and
- (f) section 39 respecting spousal separation, including whether any change should be made to the policy upon which that section is based.

#### Implementation of policies

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

#### Internal procedures

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

### **25. Membership of the Lands Authority**

#### Composition

25.1 The Lands Authority shall be composed of an uneven number of no less than five and no more

than seven Members, all of whom must be Eligible Voters.

#### Eligibility to be nominated as a Lands Authority Member

25.2 Any Eligible Voter, whether resident on or off First Nation Land, is eligible for appointment or election to the Lands Authority, except for the following:

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

#### Selection of Lands Committee Members

25.3 The members of the Lands Authority are to be selected as follows:

- (a) one member of Council appointed by Council; and
- (b) the remaining members elected by Eligible Voters.

#### Term of office

25.4 The term of office of a member of the Lands Authority elected under this *Land Code* shall not exceed four years, but nothing precludes such member from being elected for further terms.

25.5 The appointment under section 25.3(a) shall be made as soon as practicable after an election of Council.

#### Staggered terms

25.6 In the first election held under this *Land Code*:

- (1) the one half of the number of elected members of the Lands Authority with the highest and sequentially next highest number of votes shall hold office for a term commencing at midnight of the election date and terminating at midnight four years following the election date or upon being replaced in a subsequent election, whichever occurs first; and
- (2) the remaining one half of the number of elected members of the Lands Authority shall hold office for a term commencing at midnight of the election date and terminating at midnight two years following the election date or upon being replaced in office in a subsequent election, whichever occurs first.

25.7 Thereafter the elected members of the Lands Authority will hold office for a term commencing at midnight on the date of their election and terminating at midnight four years following that date, or upon being replaced in office in a subsequent election, whichever occurs first.

## Election Law

25.8 Council shall enact a Law to establish the procedure for the Lands Authority election, including such additional transitional rules as may be necessary for the members of the first Lands Authority.

25.9 An election for members of the Lands Authority shall be held no more than 14 days after an election of Council.

## Vacancy on Lands Committee

25.10 The office of a member of the Lands Authority becomes vacant if the member, while holding office:

- (a) is or becomes ineligible to hold office under section 25.2;
- (b) ceases to be a Member because of a transfer of membership from the First Nation;
- (c) is absent for three consecutive meetings of the Lands Authority for a reason other than illness or incapacity without being authorized to be absent by the Lands Authority;
- (d) dies or becomes mentally incompetent; or
- (e) the member of the Lands Authority appointed under section 25.3(a) ceases to be a member of Council.

## Vacancy in term

25.11 Where the office of a member of the Lands Authority becomes vacant more than 90 days before the date when another election would ordinarily be held or appointment would be made, a special election may be held or appointment made in accordance with this *Land Code* to fill the vacancy.

## Balance of term of office

25.12 The term of a member of the Lands Authority appointed or elected to fill a vacancy under section 25.10 is the balance of the term in respect of which the vacancy occurred.

## 26. Chair of the Lands Authority

### Chair

26.1 The member of Council who is appointed under section 25.3(a) shall be the Chair of the Lands Authority.

### Alternate Chair

26.2 If the Chair is unable to perform the functions of office, the Lands Authority shall appoint another member of the Lands Authority to act as the Chair, subject to confirmation by Council.

### Duties of the Chair

26.3 The duties of the Chair are to:

- (a) chair meetings of the Lands Authority;
- (b) ensure the preparation of financial statements relating to all activities of the Lands Authority, including any applicable revenues and expenditures concerning First Nation Lands;
- (c) table any Lands Authority financial statements with Council;
- (d) report to the First Nation on the activities of the Lands Authority;
- (a) ensure the audited annual financial statements are presented under section 21.7; and
- (b) perform such other duties as the Lands Authority may reasonably prescribe.

## **27. Revenue From Lands**

Determination of  
fees and rent

27.1 The Lands Authority, shall subject to the approval of Council, establish a process for determining:

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

Consideration of obligation

27.2 Subject to section 19.2, the Lands Authority shall recommend to Council processes and criteria for managing the First Nation's obligations in relation to revenue from lands.

## **28. First Nations Lands Register**

Duplicate Register

28.1 Council shall ensure that a duplicate copy of the following instruments is deposited in the First Nations Land Register:

- (a) any grant of an interest or license in First Nation Land;
- (b) any transfer or assignment of an interest in 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*.



## **29. Registration of Interests and Licenses**

### Duty to maintain

29.1 Council shall maintain a Lheidli T'enneh Land Register in the same form and with the same content as the First Nations Land Register.

### Enforcement of interests and licenses

29.2 An interest or license in First Nation Land created or granted after this *Land Code* takes effect is not enforceable unless it is registered in the Lheidli T'enneh Lands Register.

### Duty to deposit

29.3 Council shall ensure that an original copy of the following instruments is deposited in the Lheidli T'enneh Land Register:

- (a) any grant of an interest or license in First Nation Land;
- (b) any transfer or assignment of an interest in 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*.

29.4 Every person who receives an interest or license in First Nation Land from a Member shall deposit an original copy of the relevant instrument in the Lheidli T'enneh Lands Register.

### Registration of consent or approval

29.5 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.

## **PART 7 INTERESTS AND LICENSES IN LAND**

## **30. Limits on Interests and Licenses**

### All dispositions in writing

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

### Standards

30.2 Council may, after full and fair consideration of any recommendations made in accordance with

section 24.2, establish mandatory standards, criteria and forms for interests and licenses in First Nation Land.

Improper transactions void

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

Non-Members

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

Grants to non-Members

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

### **31. Existing Interests**

Continuation of existing interests

31.1 Any interest or license in First Nation Land that exists when this *Land Code* takes effect will, subject to this *Land Code*, continue in force in accordance with its terms and conditions.

### **32. New Interests and Licenses**

Authority to make dispositions

32.1 Subject to section 12.1, Council may, on behalf of Lheidli T'enneh First Nation, grant:

(a) interests and licenses in Community Lands, including leases, permits, easements and rights-of-ways; and

(b) permits to take resources from Community Lands, including but not limited to, cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances.

Conditional grant

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

Role of the Lands Authority

32.3 The Lands Authority shall advise Council on the granting of interests, licenses and permits and

may be authorized to act as a delegate of Council under this section.

### **33. Possession of Land by Members**

#### Nature of Members Interest

33.1 Subject to section 12.1, Council may enact Laws providing for an interest in First Nation Land that entitles a Member holding First Nation Land to:

- (a) permanent possession of the land;
- (b) benefit from the resources arising from the land;
- (c) grant subsidiary interests and licenses in the land, including leases, permits, easements and rights-of-ways;
- (d) transfer, devise or otherwise dispose of the land to another Member; and
- (e) any other rights, consistent with this *Land Code*, that are attached to Certificates of Possession under the *Indian Act*.

### **34. Allocation of Land**

#### Allocation of lots

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

34.2 No community approval is required for an allocation under section 34.1.

#### No allocation of lots to non-Members

34.3 A person who is not a Member shall not be allocated a lot or hold a permanent interest in First Nation Land.

#### Issuance of certificate of interest

34.4 Council may issue a certificate of the interest to a Member for a lot allocated to that Member.

### **35. Transfer and Assignment of Interests**

#### Transfer of Interests

35.1 A Member may transfer or assign an interest in First Nation Land to another Member without the need for community approval or consent of Council.

#### Consent of Council

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

(a) there shall be no transfer or assignment of an interest in First Nation Land without the written consent of Council; and

(b) the grant of an interest or license is deemed to include section 35.2(a) as a condition of any subsequent transfer or assignment.

### **36. Limits on Mortgages and Seizures**

#### Protections

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

#### Mortgage of Member's interest

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

#### Mortgages of leasehold interests with consent

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

#### Time limit

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

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

#### Default in mortgage

36.5 In the event of default in the terms of a charge or mortgage of a leasehold interest, the leasehold interest is not subject to possession by the chargee or mortgagee, foreclosure, power of sale or any other form of execution or seizure, unless:

- (a) the charge or mortgage received the written consent of Council;
- (b) the charge or mortgage received community approval where required;
- (c) the charge or mortgage was registered in the Lheidli T'enneh Land Register; and
- (d) a reasonable opportunity to redeem the charge or mortgage was given to Council on behalf of the

First Nation.

Power of redemption

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

### **37. Residency and Access Rights**

Right of residence

37.1 The following persons may reside on First Nation Lands:

- (a) a Member who has been allocated a residential lot by Council;
- (b) a Spouse and children of a Member referred to in subsection (a);
- (c) a Member with a registered interest in First Nation Land;
- (d) any invitee of a Member referred to in subsection (a) or (b); and
- (e) lessees and permittees, in accordance with the provisions of the instrument granting the lease or permit.

Right of Access

37.2 The following persons have a right of access to First Nation Lands:

- (a) a lessee;
- (b) a lessee's invitees;
- (c) a permittee and any person who is granted a right of access under the permit;
- (d) a Member;
- (e) a Member's Spouse and children;
- (f) a person who is authorized by a government body or any other public body, established by or under an enactment of the First Nation, 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; or
- (g) a person authorized in writing by Council, the Lands Authority or by a First Nation Law.

Public access

37.3 A person may have access to First Nation 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 First Nation Land.

#### Trespass

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

#### Civil remedies

37.5 All civil remedies for trespass are preserved.

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

#### Right of widow or widower

38.1 In the event that:

- (a) a Member holding an interest in First Nation Land dies and is survived by a Spouse who does not hold a registered interest in that land; or
- (b) a Member holding an interest in First Nation Land is declared incompetent due to mental incapacity;

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

#### Location of family Members

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

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

#### Meeting of Members

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

### **39. Spousal Property Law**

Development of rules  
and procedures

39.1 Within 12 months after the date this *Land Code* takes effect Council shall enact a spousal property Law providing rules and procedures applicable on the breakdown of a marriage, to:

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

Enactment of rules  
and procedures

39.2 The rules and procedures contained in the spousal property Law shall be developed by the Lands Authority in consultation with the community.

General principles

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

- (a) the children of the Spouses, if any, should have a right to remain undisturbed in the matrimonial home;
- (b) each Spouse should have an equal right to possession of the matrimonial home;
- (c) each Spouse should be entitled to an undivided half interest in the matrimonial home as a tenant in common;
- (d) the rules and procedures shall not discriminate on the basis of sex; and
- (e) only Members are entitled to hold a permanent interest in First Nation Land or a charge against a permanent interest in First Nation Land.

Interim rules

39.4 Council may enact a spousal property Law as soon as this *Land Code* comes into force.

39.5 A Law enacted under section 39.4 will expire twelve months after the coming into force of this *Land Code*, unless re-enacted, replaced or amended in accordance with section 39.1.

## **PART 8 DISPUTE RESOLUTION**

### **40. Dispute Resolution Panel**

Panel established

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

#### Appointment of Panel

40.2 A Panel shall be composed of three Eligible Voters.

#### Representation

40.3 The Lands Authority shall appoint the Panel, and shall ensure that the Panel represents the various elements of the community, including Elders, youth and non-resident Members.

#### Term of office

40.1 Panelists hold office for a term of 3 years.

#### No remuneration

40.2 Unless Council by Resolution provides otherwise, panelists shall receive no remuneration.

### **41. Dispute Procedure**

#### Disputes

41.1 Any matter or dispute related to First Nation Land may be referred to the Panel for Resolution.

#### Prior Disputes

41.2 For greater certainty, disputes that arose before this *Land Code* takes effect may be referred to the Panel.

#### Optional process

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

#### Disputes not resolved by Council

41.4 If a Member, or a non-Member with an interest in First Nation Land, has a dispute with Council or the Lands Authority, that person shall attempt to resolve the dispute with Council or the Lands Authority, before referring the dispute to the Panel.

#### Application procedures

41.5 Referral to the Panel shall be made in accordance with procedures established by the Panel.

#### Limitation period

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



- (a) 30 days after the day the decision, act or omission being referred was made;
- (b) in the case of an estate dispute under section 38.2(b), 18 months after the date of the decision; or
- (c) in the case of a dispute with the Lands Authority or Council, 30 days after the Lands Authority or Council rejects the attempt at resolution under section 41.4.

#### Disputes with the Lands Authority

41.7 Notwithstanding section 40.3, in the event of a dispute with the Lands Authority, and unless otherwise agreed by the Parties to the dispute, a Panel shall be appointed as follows:

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

### **42. Impartiality**

#### Duty to act impartially

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

#### Offence

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

#### Rejection of application

42.3 In addition to any other sanction, the Panel may reject a referral without hearing it if the Panel reasonably concludes that the applicant acted, or attempted to act, in a way to improperly influence the Panel's decision.

### **43. Powers of Panel**

#### Powers of Panel

43.1 The Panel may, after hearing a dispute:

- (a) confirm or reverse the decision, in whole or in part;
- (b) substitute its own decision for the decision in dispute;
- (c) direct that an action be taken or ceased; or

(d) refer the matter or dispute for reconsideration.

#### Rules of Panel

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

#### Professional services

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

#### Written decisions

43.4 Decisions of the Panel must be in writing, signed by the person chairing the Panel or by an officer designated by the Panel to do so.

#### Reasons

43.5 The Panel shall give reasons for a decision.

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

#### Appeal of decision

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

## **PART 9 OTHER MATTERS**

### **44. Liability**

#### Liability Coverage

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

- (a) liability of the First Nation in relation to First Nation Land; and
- (b) the First Nation's officers and employees engaged in carrying out any matter related to First Nation 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 by Council.

### **45. Offences**

#### Application of the

## Criminal Code

45.1 Unless some other 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.

## Justices of the peace

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

## Provincial courts

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

## 46. Amendments to *Land Code*

### Community approval

Amendments to this *Land Code* must receive approval at a Meeting of Members.

### Preconditions

47.1 This *Land Code* shall not take effect unless:

- (a) the community approves this *Land Code* and the Transfer Agreement with Canada; and
- (b) this *Land Code* has been certified by the verifier pursuant to the *Framework Agreement*.

### Commencement date

Subject to section 47.1 this *Land Code* shall take effect on the first day of the month following the certification of this *Land Code* by the verifier