



**TSAWOUT FIRST NATION
LAND CODE**

CONSOLIDATED VERSION

Including amendments resulting from:

Ratification Vote #1: June 25, 2013

Ratification Proposed Vote #2: November 18, 2016

**(Underlining denotes amendments
ratified on [Month][Day], 2016)**

TABLE OF CONTENTS

PREAMBLE	4
PART 1	5
PRELIMINARY MATTERS	5
1. Title	5
2. Interpretation	5
3. Authority to Govern	10
4. Purpose	10
5. Description of First Nation Land	11
PART 2	13
FIRST NATION LEGISLATION	13
6. Law-Making Powers	13
7. Law-Making Procedure	15
8. Publication of Laws	16
PART 3	17
COMMUNITY CONSULTATION AND APPROVALS	17
9. Rights of Eligible Voters	17
10. Community Input	17
11. Approval at a Meeting of Members	18
12. Procedure at a Meeting of Members	18
13. Ratification Votes	19
PART 4	20
PROTECTION OF LAND	20
14. Expropriation by First Nation	20
15. Voluntary Land Exchange and Protection	23
PART 5	25
CONFLICT OF INTEREST	25
16. Conflict of Interest	25
PART 6	26
LAND ADMINISTRATION	26
17. Financial Management	26
18. Financial Records	28
19. Audit	28
20. Annual Report	29
21. Access to Financial Information	29
22. Land Management Committee	30
23. Land Management Committee Membership	32
24. Chair of the Land Management Committee	34
25. Registration of Interests	35
PART 7	37
INTERESTS AND LICENCES IN LAND	37
26. Limits on Interests and Licences	37
27. Existing Interests	38
28. New Interests and Licences	38
29. Permanent Interests	40

30.	Residential Allocations	41
31.	Transfer and Assignment of Interests	42
32.	Limits on Mortgages, Seizures and Tax	42
33.	Residency and Access Rights	44
34.	Transfers on Death or Mental Incompetence	44
35.	Spousal Property Law	45
PART 8	.....	46
DISPUTE RESOLUTION	.....	46
36.	Intent	46
37.	Dispute Resolution Panel	48
38.	Procedure to File a Dispute	49
39.	Facilitated Discussions	50
40.	Mediation	50
41.	Hearing by Dispute Resolution Panel	51
42.	Arbitrator	53
43.	Costs	53
PART 9	.....	54
OTHER MATTERS	.....	54
44.	Liability	54
45.	Offences, Penalties and Enforcement	54
46.	Amendment	55
47.	Commencement	55
SCHEDULE A	.....	57
INTERIM LAND MANAGEMENT COMMITTEE	.....	57

PREAMBLE

WHEREAS the Members of the STÁUTW First Nation have a profound and sacred relationship with the islands, points, land, boulders, four winds, trees, birds, animals, fishes, fire and water of its territorial homeland, encompassing all spiritual places, medicine and fruit gathering places, fishing stations, hunting and trapping areas, winter and summer homesites, burial sites, meditation places and all territories in between;

AND WHEREAS the STÁUTW First Nation is a member of the WSÁNEĆ Nation and a party to a Douglas Treaty;

AND WHEREAS the traditional teachings of the WSÁNEĆ Peoples speak of the obligation of the people of STÁUTW First Nation to care for and respect each other, future generations, the land and the other living things of the land, and by enacting this Land Code, the First Nation is continuing this special responsibility;

AND WHEREAS the authority of the STÁUTW First Nation to govern its lands and resources flows from XALS, the Creator to the people of the First Nation, and from the people to the Chief and Council according to the culture, traditions, customs and laws of the First Nation;

AND WHEREAS the STÁUTW First Nation wishes to enhance opportunities for its members to participate in governance matters and to benefit equitably from its lands and resources;

AND WHEREAS the Members of the STÁUTW First Nation wish to include and give effect to their customary laws, interests and traditions in discharging their governing jurisdiction and authority;

AND WHEREAS the STÁUTW First Nation wishes to reassume management of its lands and resources, rather than having them managed on its behalf under the *Indian Act*, thereby enabling the First Nation to become more accountable and economically self sufficient, with the means to live in dignity and assume responsibility for its economic, political, cultural and social development;

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

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

PART 1 PRELIMINARY MATTERS

1. Title

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

2. Interpretation

Definitions

2.1 The following definitions apply in this Land Code:

“Act” means the *First Nations Land Management Act*, S.C. 1999, c.24;

“Arbitrator” means an arbitrator selected in accordance with sections 42.1 to 42.3;

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

“Chair” means the Chair of the Land Management Committee selected under section 24.1;

“Common-law Spouse” means a person who has been living with another person of either gender in a marriage-like relationship for a continuous period of at least two years;

“Community Land” means any First Nation Land that is not subject to a Permanent Interest;

“Council” means the Chief and Council of the First Nation;

“Dispute Resolution Panel” or “Panel” means the dispute resolution panel constituted under section 41.3 or 41.4 from the Eligibility List established by Council under section 37.1;

“Douglas Treaty” means the Douglas Treaty for South Saanich of February 1852;

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

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

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

“Extended Family” means, in respect of an individual, the individual’s Immediate Family, grandparent, uncle, aunt or first cousin;

“Financial Administration Law” means the *Tsawout First Nation Amended and Restated Financial Administration Law, 2012*, including its Schedule, as amended or replaced from time to time;

“First Nation” means the Tsawout First Nation as named in the Act;

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

“Framework Agreement” means the Framework Agreement on First Nation Land Management entered into between the Government of Canada and fourteen first nations on February 12, 1996, as amended;

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

“*Indian Act*” means the *Indian Act*, R.S.C. 1985, c. I-5;

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

“Instrument” means a formal legal document;

“Interest” means an interest in First Nation Land and includes a Permanent Interest, Residential Allocation, Leasehold, Mortgage, Life Estate and Easement but for greater certainty does not include title to that land;

“Land Code” means this *Tsawout First Nation Land Code*;

“Land Management Committee” means the Land Management Committee established under section 22.1;

“Lands Manager” means the Tsawout First Nation employee responsible for the administration of First Nation Land;

“Law” means a Law enacted under this Land Code including an amendment to a Law, but does not include a Resolution;

“Lease” means a written contract setting out terms and conditions of a Leasehold;

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

“Licence” means a permission granted under this Land Code or a permit issued by the Minister pursuant to subsection 28(2) of the *Indian Act* prior to the effective date of this Land Code, to use, develop, or extract specified Natural Resources from, or otherwise have non-exclusive use of, a specified parcel or parcels of First Nation Land but which does not grant an Interest in, or possession to, First Nation Land;

“Life Estate” means an interest in a Permanent Interest or a Residential Allocation granted to a Spouse, including a non-Member Spouse, that conveys the Spouse a right to use and occupy a specified home or parcel of First Nation Land for a time period which cannot exceed the life of the grantee;

“Meeting of Members” means a meeting of First Nation Members under Part 3;

“Member” means an individual who is entitled to be a member, or who has been approved for membership under the STAUTW First Nation Membership Law.

“Minister” means the Minister of Aboriginal Affairs and Northern Development Canada;

“Mortgage” means a charge or encumbrance on an Interest in First Nation Land in favour of another as security for a debt;

“Natural Resources” means any materials or substances on, under or in First Nation Land in their natural state which, when removed, have economic or other value;

“Panel” means the Dispute Resolution Panel established under section 41.3;

“Person” means an individual, a body corporate, a partnership, a society or other entity, including the First Nation, and any trustee, executor, administrator or other legal representative;

“Permanent Interest” means lawful possession of First Nation Land allotted by the Council and approved by the Minister pursuant to subsection 20(1) of the *Indian Act* or the holder of a Location Ticket pursuant to subsection 20(3) of the *Indian Act*, or equivalent tenure issued under this Land Code;

“Province” means Her Majesty the Queen in Right of the Province of British Columbia;

“Ratification Vote” means a vote under Division 13;

“Registered Interest” means an Interest in First Nation Land registered under Division 25;

“Residential Allocation” means in interest in First Nation Land created under Division 30;

“Resolution” means a resolution of Council made pursuant to the consent of a majority of the members of Council of the First Nation present at a meeting of the Council duly convened;

“Register” means the register of First Nation Land established by Canada under clause 51.2 of the Framework Agreement and maintained in the First Nations Land Registry established under the *First Nations Land Registry Regulations*, SOR/2007-231;

“Spouse” means a person who is married to another person, including through an Aboriginal customary marriage, or who is a Common-law Spouse;

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

“STÁUTW” means the Tsawout First Nation;

“Trustee” means a Member who is 19 years of age or older and who has been designated in writing to hold a Residential Allocation or a Permanent Interest in trust on behalf of another Member; and

“Verifier” means a verifier appointed in accordance with clause 8.1 of the Framework Agreement.

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 will prevail to the extent of the inconsistency or conflict.
- 2.3 If there is an inconsistency or conflict between this Land Code and the Douglas Treaty, the Douglas Treaty will prevail to the extent of the inconsistency or conflict.
- 2.4 If there is an inconsistency or conflict between this Land Code and the Framework Agreement, the Framework Agreement will prevail to the extent of the inconsistency or conflict.

Culture and Traditions

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

Interpretation

- 2.6 This Land Code will be interpreted in a fair, large and liberal manner.
- 2.7 In this Land Code:
- (a) the use of the word “will” denotes an obligation that, unless this Land Code provides to the contrary, must be carried out as soon as practicable after this Land Code comes into effect or the event that gives rise to the obligation;
 - (b) 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”;
 - (c) headings and subheadings are for convenience only, do not form a part of this Land Code and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Land Code;
 - (d) a reference to a statute includes every amendment to it, every regulation made under it and any Law enacted in substitution for it or in replacement of it;
 - (e) unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular;
 - (f) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine; and
 - (g) a reference to a Part (e.g. Part 1), Division (e.g. Division 1), section (e.g. section 2.1), paragraph (e.g. paragraph 3.4(a)) or Schedule (e.g. Schedule A) is a reference to the specified Part, Division, section, paragraph or Schedule of this Land Code, except where otherwise stated.

Language

- 2.8 The SENĆOŦEN language may be used to clarify the meaning of any provision of this Land Code, if the meaning of that provision is not clear in English.

Non-abrogation

- 2.9 This Land Code is not intended to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain now or in the future to the First Nation or its Members.
- 2.10 This Land Code is not intended to affect the eligibility of the First Nation or any Member to receive services or participate in such public or aboriginal programs as may be established from time to time to the extent that the First Nation has not assumed responsibility for such services or programs.

Fiduciary Relationship

2.11 This Land Code is not intended to abrogate the fiduciary relationships between Canada, the First Nation and its Members.

Lands and Interests Included

2.12 A reference to "land" or "Land" in this Land Code is, unless the context otherwise requires, a reference to First Nation Land and includes all rights and resources in and of First Nation land, including:

- (a) the water, beds underlying water, riparian rights, minerals and subsurface resources and all other 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 Licences granted to the First Nation by Canada as listed in the Individual Agreement.

2.13 Unless a Law provides otherwise, the interpretation provisions of this Division 2 apply to Laws.

3. Authority to Govern

Source of Authority

3.1 The authority of the First Nation to govern its land and resources flows from its inherent right of self-government and its rights, including aboriginal title and those rights defined in the Douglas Treaty.

4. Purpose

Purpose

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

Ratification of Framework Agreement

4.2 The Framework Agreement is ratified by the First Nation when the First Nation approves this Land Code.

5. Description of First Nation Land

First Nation Land

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

- (a) East Saanich Indian Reserve No. 2 (“I.R.2”), being the whole of those reserve lands within the Province of British Columbia, Canada in the South Saanich District, more particularly described as:

All that portion of land bounded by the exterior rectilinear boundaries as shown on Plan 58751 recorded in the Canada Lands Surveys Records (CLSR), and the ordinary high water mark (OHWM) of Cordova Channel and Saanichton Bay as shown on Plan 89661 CLSR.

Excepting thereout and therefrom;

All that portion required for road as shown on Plan RD1599 having a width of 4.572 metres (15 feet).

Total lands, excluding mines and minerals, containing 238 hectares, (588 acres) more or less.

The I.R.2 reserve lands are subject to:

An easement in favour of Vancouver Island Power Co., registered in the Indian Lands Registry (ILR) as Nos. 1030-2, 53730, 53731 and 53732;

An easement in favour of Public Works Canada, registered in the ILR as Nos. 1031-2 and 248898;

An easement agreement with the Capital Regional District, registered in the ILR as No. 124326 and modified by Document No. 298951, assigned to the Tsawout First Nation by Document No. 298955.

The rights and reservations contained in provincial Order in Council 1938-1036, registered in the ILR as No 8042, transferring the land from the Province of British Columbia to Canada, as amended by provincial Order in Council 1969-1555, registered in the Indian Lands Registry as No. 4111-118.

- (b) Fulford Harbour Indian Reserve No. 5 (“I.R.5”), being the whole of those reserve lands within the Province of British Columbia, Canada in the Cowichan District, more particularly described as:

All that portion of land bounded by the exterior rectilinear boundaries as shown on Plan 74885 recorded in the Canada Lands Surveys Records (CLSR), and the ordinary high water mark of Fulford Harbour as shown on Plan 88602 CLSR.

Total lands, excluding mines and minerals, containing 21 hectares, (51 acres) more or less.

The I.R.5 reserve lands are subject to:

The rights and reservations contained in provincial Order in Council 1938-1036, registered in the Indian Lands Registry (ILR) as No 8042, transferring the land from the Province of British Columbia to Canada, as amended by provincial Order in Council 1969-1555, registered in the Indian Lands Registry as No. 4111-118.

Additional Lands

- 5.2 The following lands may be made subject to this Land Code if they are, or become, reserve lands and the relevant conditions are met:
- (a) lands owned jointly or in common by the First Nation and another First Nation, if the First Nations agree upon a joint management scheme for those lands, including:
 - i. Indian Reserve 06835, Saturna Island No. 7, Cowichan District, E. half of section 12, and west half of section 13 on easterly point of Saturna Island, south entrance to Strait of Georgia;
 - ii. Indian Reserve 06836, Pender Island No. 8, Cowichan District on Hay Point west side of South Pender Island;
 - iii. Indian Reserve 06837, Bare Island No. 9, Cowichan District, the whole of Mandarte Island, at the head of Haro Strait;
 - iv. Indian Reserve 06838, Goldstream No. 13, Goldstream and Highland Districts, at south end of Finlayson Arm and mouth of the Goldstream River; and
 - (b) any land or interest acquired by the First Nation after this Land Code comes into effect, whether by land claim, purchase or other process, when an environmental audit declares it free of environmental hazard and safe for community use.
- 5.3 Section 5.2 does not apply to land acquired by voluntary land exchange in accordance with section 15.1.
- 5.4 If the relevant conditions in section 5.2 are met, Council will call a Meeting of Members and, after receiving input at that meeting, may enact a Law declaring the land or interest to be subject to this Land Code, and will request of Canada that the Individual Agreement be amended accordingly and that Canada take all other steps as are necessary in order to have the land fall under the definition of First Nation Land.

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 Licences in relation to First Nation Land;
- (c) any matter necessary to give effect to this Land Code; and
- (d) any matter necessary or ancillary to a Law respecting First Nation Land.

Examples of Laws

6.2 For greater certainty, and without limiting the generality of section 6.1, Council may make Laws in relation to First Nation Land including:

- (a) zoning and land use planning;
- (b) economic development of Community Land;
- (b.1) the establishment of fees or charges relating to activities on First Nation Land;
- (b.2) the creation of a permitting system for projects on First Nation Land;
- (c) regulation, control, authorization and prohibition of the occupation and development of land;
- (d) creation, regulation and prohibition of Interests and Licences;
- (d.1) to provide for the rights and responsibilities of landlords and tenants;
- (e) environmental assessment and protection;
- (f) provision of local services and the imposition of user charges;
- (g) provision of services for the resolution, outside the courts, of disputes;
- (h) administrative appeals from a decision to grant or refuse to grant an interest in First Nation Land;

- (i) authorization and regulation of subdivisions and the conduct of surveys;
- (j) setting aside, protection and regulation of parks, parklands and recreational lands;
- (k) setting aside, protection and regulation of heritage sites, cultural sites, traditional sites, spiritual sites and wildlife refuges;
- (l) rules and procedures for the receipt, management, expenditure, and borrowing of moneys, and the establishment of administrative structures to manage such moneys;
- (m) creation of management and administrative bodies or agencies;
- (n) removal and punishment of persons trespassing upon First Nation Land or frequenting First Nation Land for prohibited purposes;
- (o) public nuisance and private nuisance;
- (p) regulation of sanitary conditions and the provision of sanitary services in private premises and public places;
- (q) construction and maintenance of boundary and internal fences;
- (r) construction, maintenance and management of roads, water courses, water diversions, storm drains, bridges, ditches and other local and public works;
- (s) setting aside of lands for community purposes or works;
- (t) regulation of traffic and transportation; and
- (u) procedures that apply to the transfer, by testamentary disposition or succession, of an Interest in First Nation Land.

Administration

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

Delegation

6.4 Notwithstanding section 6.3 Council may by enacting a Law, or by passing a Resolution, delegate administrative authority in relation to this Land Code or a Law enacted under section 6.1 to an individual or body established or authorized under this Land Code or pursuant to a Law.

7. Law-Making Procedure

Introduction of Laws

- 7.1 A proposed Law may be introduced at a meeting of Council by:
- (a) a representative of the Land Management Committee or other body composed of Members authorized by Council to do so;
 - (b) a member of Council; or
 - (c) the Lands Manager.

Tabling and Posting of Proposed Laws

- 7.2 A proposed Law will be:
- (a) deposited with the Chair of the Land Management Committee at least 30 days before the proposed Law is voted upon;
 - (b) posted in the First Nation administration offices and other public places on First Nation Land at least 28 days before the proposed Law is voted upon; and
 - (c) tabled at a meeting of Council at least 21 days before the proposed Law is voted upon by Council.

7.3 *[repealed, June 25, 2013]*

7.4 *[repealed, June 25, 2013]*

7.5 *[repealed, June 25, 2013]*

7.6 *[repealed, June 25, 2013]*

Urgent Matters

- 7.7 Council may enact a Law without the preliminary steps required under section 7.2 if Council is reasonably of the opinion that the Law is needed urgently to protect First Nation Land or Members.
- 7.8 A Law enacted under section 7.7 will be deemed to be repealed and will have no force and effect sixty (60) days after it is enacted, but may be re-enacted in accordance with section 7.2.

Approval of Law by Council

- 7.9 A Law is enacted if it is approved by Council by Resolution, or by the Members pursuant to section 16.4.

Execution of Laws or Resolutions

7.10 The original copy of a Law or Resolution relating to First Nation Land will be signed by the members of Council present at the meeting at which the Law is enacted.

Law Coming Into Force

7.11 A Law comes into force on:

- (a) the date it is enacted; or
- (b) such other date as may be set by the Law.

7.12 A Law may be repealed or amended by following the procedure set out in this Division this Section, unless the Law to be amended specifies a different procedure, in which case the procedure set out in the Law applies.

8. Publication of Laws

Publication

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

Posting Laws

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

Register of Laws

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

8.4 Any person may, during regular business hours at the First Nation administration offices, have reasonable access to the register of Laws.

Copies for Any Person

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

PART 3 COMMUNITY CONSULTATION AND APPROVALS

9. Rights of Eligible Voters

Rights of Eligible Voters

- 9.1 An Eligible Voter has the right to vote at a Meeting of Members and in a Ratification Vote.

10. Community Input

Prior Meeting of Members

- 10.1 Council will call a Meeting of Members to receive input prior to voting upon a Law in respect of:

- (a) a land use plan;
- (b) a subdivision plan;
- (c) declaring land or an interest in land referred to in section 5.2 to be subject to this Land Code;
- (d) a heritage site, cultural site, traditional site, spiritual site or wildlife refuge;
- (e) an environmentally sensitive property;
- (f) environmental assessment;
- (g) the transfer or assignment of Interests in First Nation Land;
- (h) spousal property under Division 35;
- (i) any other matter or class of matters that Council by Resolution declares to be subject to this section.

- 10.2 *[repealed, date, 2016]*

Consultation with other Governments on Laws

- 10.3 Nothing in this Land Code precludes Council or the Land Management Committee from consulting with other advisors or representatives of other jurisdictions, including other first nations, municipal corporations and regional districts, to develop and implement the Laws referred to in section 10.1.

11. Approval at a Meeting of Members

Approval at Meeting

11.1 Approval at a Meeting of Members must be obtained for:

- (a) a land use plan;
- (b) amendment of a land use plan;
- (c) a spousal property law under Division 35 or a substantive amendment to such a law; and
- (d) a Law or class of Law that Council, by Resolution, declares to be subject to this section.

12. Procedure at a Meeting of Members

Voting

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

Quorum

12.2 The quorum for a Meeting of Members is ten percent of the Eligible Voters.

Notice of Meeting

12.3 Council will give written notice of a Meeting of Members that:

- (a) specifies the date, time and place of the meeting; and
- (b) contains a brief description of the matters to be discussed and decided at the meeting.

Manner of Notice

12.4 Written notice of a Meeting of Members under section 12.3 will be given by:

- (a) posting the notice in public places on First Nation Land at least 21 days before the meeting;
- (b) mailing the notice to Eligible Voters at their last known address at least 21 days before the meeting;
- (c) publishing the notice in a community newsletter or local newspaper at least ten days before the meeting; or

- (d) such other methods as Council may consider appropriate.

Who May Attend

- 12.5 A Member has a right to attend a Meeting of Members.
- 12.6 A person other than a Member may attend a Meeting of Members with permission of Council.

Other Meetings

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

Procedural Laws

- 12.8 Council may make Laws respecting procedures for Meetings of Members.
- 12.9 A Law enacted under section 12.8 may provide that, in the event that a Meeting of Members does not achieve quorum or otherwise fails to decide a matter, or as an alternative to a Meeting of Members, the matter that requires a Meeting of Members may be decided by the Eligible Voters by means of a Ratification Vote.
- 12.10 *[repealed, June 25, 2013]*

13. Ratification Votes

Approval by Ratification Vote

- 13.1 Approval by a Ratification Vote must be obtained for:
- (a) a voluntary exchange of First Nation Land under section 15.1;
 - (b) amendment of the Individual Agreement that reduces the amount of funding provided by Canada;
 - (c) amendment of this Land Code; and
 - (d) *[repealed, date, 2016]*
 - (e) *[repealed, date, 2016]*
 - (f) enactment of a Law or class of Laws that Council, by Resolution, declares to be subject to this section.

Individual Agreement with Canada

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

Ratification Process

- 13.3 A Ratification Vote required under this Land Code will be conducted, with any necessary modifications appropriate in the circumstances, in substantially the same manner as that provided in the *Tsawout First Nation Community Ratification Process* that was used to ratify this Land Code.

Minimum Requirements for Approval

- 13.4 A matter will be considered approved by a Ratification Vote if at least 10 percent of the Eligible Voters participates in the vote and at least a majority of the participating Eligible Voters cast a vote by secret ballot in favour of the matter.

No Verifier

- 13.5 A Verifier is not required in a Ratification Vote under this Part.

PART 4 PROTECTION OF LAND

14. Expropriation by First Nation

Rights and Interests That May Be Expropriated

- 14.1 An Interest or Licence in First Nation Land or in any building or other structure on such land, or a portion of same, may be expropriated by the First Nation in accordance with the Framework Agreement and a Law enacted in accordance with section 14.5.

Community Purposes

- 14.2 An expropriation may be made only for a necessary community purpose or works of the First Nation, including fire halls, sewage or water treatment facilities, community centers, public works, roads, schools, day-care facilities, hospitals, health care facilities or retirement homes.
- 14.3 Notwithstanding section 14.2, an Interest or Licence granted by a Member in First Nation Land may be expropriated if:
- (a) the Interest or Licence to be expropriated is determined to be fraudulent or to have been granted for an illegal purpose; or

- (b) Council determines that the Interest or Licence is not in the best interests of the First Nation.

14.4 No expropriation may be made under section 14.3 unless:

- (a) the holder of the Interest or Licence is given a reasonable opportunity to address and rectify the concerns of the Member or the First Nation and fails within a reasonable time to do so;
- (b) the Member consents to the expropriation;
- (c) the expropriated Interest reverts to the Member; and
- (c) the expropriation is carried out in accordance with this Part.

Expropriation Law

14.5 Council will enact a Law respecting rights and procedures for expropriations, including provisions in respect of:

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

Public Report

14.6 Before the First Nation expropriates an Interest or Licence, Council will:

- (a) prepare a report on the reasons for the expropriation;
- (b) post a copy of the report in the First Nation administration offices; and
- (c) mail a copy of the report to each Eligible Voter at their last known address.

Rights That May Not Be Expropriated

14.7 An interest of Canada, or an interest previously expropriated or otherwise lawfully taken under section 35 of the *Indian Act*, is not subject to expropriation by the First Nation.

Acquisition By Mutual Agreement

14.8 The First Nation may expropriate an Interest or Licence only after it has made a good faith effort to acquire, by mutual agreement, the Interest or Licence and no agreement has been reached.

14.9 [*repealed; date, 2016*]

Compensation for Rights and Interests

14.10 The First Nation will, in accordance with its Laws and the Framework Agreement:

- (a) serve reasonable notice of expropriation on each affected holder of an Interest or Licence to be expropriated; and
- (b) pay fair and reasonable compensation to the holder of the Interest or Licence to be expropriated other than an expropriation pursuant to paragraph 14.3(a).

Compensation Calculations

14.11 The total value of compensation payable under paragraph 14.10(b) will be based on:

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

Fair Market Value

14.12 The fair market value of an expropriated Interest or Licence will be deemed to be equivalent to the amount that would have been paid for the Interest or Licence if it had been sold on First Nation Land by a willing seller to a willing buyer.

Neutral Evaluation to Resolve Disputes

14.13 Subject to section 14.15, the resolution of a dispute concerning the right of the First Nation to expropriate will be determined by neutral evaluation in the same manner as provided in Part IX of the Framework Agreement.

14.14 The sixty day period referred to in clause 32.6 of the Framework Agreement will be applied, as appropriate in the circumstances, by the neutral evaluator.

Arbitration to Resolve Disputes

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

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

15. Voluntary Land Exchange and Protection

Conditions for a Land Exchange

15.1 The First Nation may by agreement with another party exchange First Nation Land for land from that other party in accordance with this Land Code and the Framework Agreement.

No Effect

15.2 A land exchange is of no effect unless it receives approval by a Ratification Vote.
Land To Be Received

15.3 A land exchange may proceed to a Ratification Vote only if the land to be received by the First Nation:

- (a) is of equal or greater area than the First Nation Land to be exchanged;
- (b) is of a value comparable to the appraised value of the First Nation Land to be exchanged; and
- (c) is eligible to become a reserve under the *Indian Act* and First Nation Land subject to this Land Code.

Negotiators

15.4 A Person who negotiates a land exchange agreement on behalf of the First Nation must be designated by Resolution.

Additional Compensation

15.5 The First Nation may receive additional compensation, including money or other land, in addition to the land referred to in section 15.3.

15.6 Such other land may be held by or in trust for the First Nation, in fee simple or otherwise.

Federal Consent

- 15.7 Before the First Nation concludes a land exchange agreement, it must receive a written statement from Canada stating that Canada:
- (a) consents to set apart as a reserve the land to be received in the land exchange under section 15.3, as of the date of the land exchange or such later date as Council may specify by Resolution; and
 - (b) consents to the manner and form of the land exchange as set out in the land exchange agreement.

Notice

- 15.8 At such time as negotiation of a land exchange agreement is concluded, and at least 21 days before the Ratification Vote provided for in section 15.2, Council or its authorized delegate will provide the following information to 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 additional compensation to be received;
 - (d) a report of a certified land appraiser stating that the conditions in paragraphs 15.3 (a) and (b) have been met;
 - (e) a copy of the land exchange agreement; and
 - (f) a copy of the statement referred to in section 15.7.

Process of Land Exchange

- 15.9 A land exchange agreement will provide that:
- (a) the other party to the exchange will transfer to Canada the title to the land that is to be set apart as a reserve;
 - (b) Council will 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 will be registered in the Register.
- 15.10 Upon the lands described in paragraph 15.9(a) being transferred to Canada and their becoming additional reserve lands of the First Nation, Council may request that Canada

agree to amend the Individual Agreement in order to allow the lands in question to be governed by the provisions of the Land Code and fall within the definition of First Nation Land.

PART 5 CONFLICT OF INTEREST

16. Conflict of Interest

Application of Rules

16.1 Any member of Council, officer or employee of the First Nation, and any contractor of the First Nation that is dealing with a matter, or who is making a recommendation or a decision that is related to First Nation Land must comply with the Financial Administration Law, Schedule A: Procedures for Avoiding and Mitigating Conflicts of Interest, as amended or replaced from time to time.

Duty to Report and Abstain

16.2 If a member of a board, committee, Panel, or other body of the First Nation that is dealing with any matter that is related to First Nation land has any financial or proprietary interest in a matter being dealt with that might involve that individual, his or her Immediate Family or a business in which that individual holds an interest, that individual will:

- (a) disclose the interest to the Council, board, committee or other body;
- (b) take no part in any deliberations on the matter; and
- (c) take no part in a vote on the matter.

Common Interests

16.3 Section 16.2 does not apply to an Interest that is held by a Member in common with every other Member.

Meeting of Eligible Voters

16.4 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 of Members may enact the Law or Resolution.

Inability to Act

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

Disputes

16.6 Determination of whether a breach of this Part has occurred may be referred to the Panel.

PART 6 LAND ADMINISTRATION

17. Financial Management

Application

17.1 This Part applies only to financial matters in relation to First Nation Land that is administered under this Land Code and shall be interpreted in a manner consistent with the Financial Administration Law.

Paramountcy

17.1.1 If there is an inconsistency or conflict between this Part and the Financial Administration Law, the Financial Administration Law will prevail to the extent of the inconsistency or conflict.

Establishment of Bank Accounts

17.2 Council will maintain one or more land and resources financial accounts in a financial institution and will 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 Interests or Licences in First Nation Land;
- (c) all fees, fines, charges and levies collected under a Law or Resolution in relation to First Nation Land;
- (d) all capital and revenue moneys received from Canada from the grant or disposition of Interests and Licences in First Nation land;
- (e) monies held in trust for a Member in respect of a current lease managed by the First Nation, provided that nothing prevents Council and such Member from agreeing in writing that the Member will assume management of the Lease and release the First Nation from further obligation under this section; and
- (f) any other land revenue received by the First Nation.

17.3 Council will continue or implement a system of financial planning and financial administration for the management of First Nation moneys through which Council, First Nation employees and other persons who manage moneys in relation to First Nation Lands are accountable to the Members in accordance with clause 5.2(d) of the Framework Agreement.

Signing Officers

17.4 Council will authorize the signing officers of the First Nation to sign cheques and other bills of exchange or transfer drawn on a financial account maintained under section 17.2.

Fiscal Year

17.5 *[repealed; date, 2016]*

Adoption of Budget

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

17.7 Prior to adopting a budget referred to in section 17.6, Council will consult with the Land Management Committee.

Procedure

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

- (a) present the budget or supplementary budget to the Members at a community meeting or Meeting of Members; and
- (b) post a copy of the budget or supplementary budget at the First Nation administration offices for inspection by Members during ordinary business hours.

If No Budget

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

Expenditures

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

Financial Policy

17.11 Council may, in accordance with this Land Code, adopt financial policies and rules to further manage moneys related to First Nation Land.

18. Financial Records

Financial Records

18.1 *[repealed, date, 2016]*

Offences

18.2 Any person who has control of the financial records of the First Nation and who:

- (a) impedes or obstructs anyone from exercising a right to inspect those records; or
- (b) fails to give all reasonable assistance to anyone exercising a right to inspect those financial records,
- (c) is guilty of an offence under this Land Code.

Preparation of Financial Statement

18.3 Financial Statements in respect of the revenues and expenditures in relation to First Nation Land must be prepared in accordance with the Financial Administration Law.

Consolidated Accounts

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

19. Audit

Appointment of Auditor

19.1 The financial statements under this Part must be audited by the auditor appointed under section 72 of the Financial Administration Law.

19.2 *[repealed, date, 2016]*

Duty of Auditor

19.3 The auditor must conduct the audit of the financial statements under this Part and prepare an audit report in a manner consistent with the Financial Administration Law.

Access to Records

19.4 *[repealed, date, 2016]*

Presentation of Auditor's Report

- 19.5 Council will present the auditor's report at a community meeting or a Meeting of Members.
- 19.6 Where practicable Council will distribute the auditor's report to Members in advance of the community meeting or Meeting of Members.

20. Annual Report

Publish Annual Report

- 20.1 Council will, within thirty days after receiving an audit report under section 19.3, prepare and table with the Land Management Committee an annual report on First Nation Land management.
- 20.2 The annual report will include:
- (a) an annual review of First Nation Land management activities;
 - (b) a copy and explanation of the audit report as it applies to First Nation Land;
 - (c) a report on any proceedings and decisions under the Dispute Resolution provisions of Part 8; and
 - (d) such other matters as may be directed by Council or reasonably requested by the Land Management Committee.

21. Access to Financial Information

Copies for Members

- 21.1 Any person may, during normal business hours at the First Nation administration offices, have reasonable access to:
- (a) the auditor's report; and
 - (b) the annual report.
- 21.2 A Member may, during normal business hours at the First Nation administration office, upon payment of a reasonable fee set by Resolution, obtain a copy of the auditor's report, annual report on First Nation Land management, budget or supplementary budget.

22. Land Management Committee

Land Management Committee Established

22.1 A Land Management Committee is hereby established to:

- (a) assist with the development of the First Nation Land administration system;
- (b) advise Council and First Nation 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 First Nation Land issues and make recommendations to Council on the resolution of such issues;
- (e) assist in the exchange of information regarding First Nation Land matters between Members and Council;
- (f) oversee community consultations and approvals under this Land Code;
- (g) conduct the resolution of disputes under section 43.1; and
- (h) perform such other duties and functions as Council may direct.

Delegation

22.1.1 The Land Management Committee will delegate the duties of the Land Management Committee, other than the duties under section 17.7, section 20, section 22.5 and any other duties that Council may direct, to a sub-committee of the Land Management Committee composed of five members of the Land Management Committee including the Chair.

22.1.2 Council will appoint one member of the Council to sit as a non-voting member of the sub-committee established under section 22.1.1, and to act as a liaison between the Land Management Committee and Council.

22.1.3 A quorum of the sub-committee is three members who are members of the Land Management Committee.

22.1.4 The term of members of the sub-committee is two years unless otherwise specified in rules or procedures established under section 22.5.

22.1.5 The sub-committee established under section 22.1.1 will report on its activities to the Land Management Committee on a quarterly basis, or such other period as may be specified in rules or procedures established under section 22.5, but for greater certainty,

duties carried out and decisions made by the sub-committee are not subject to reconsideration by the Land Management Committee.

Development of Land Related Rules and Procedures

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

- (a) the process and criteria for granting Interests and Licences in First Nation Land;
- (b) environmental protection and environmental assessment in relation to First Nation Land;
- (c) resolution of disputes in relation to First Nation Land;
- (d) First Nation Land use planning and zoning;
- (e) standards and qualifications for employees and contractors hired for purposes of implementing and administering this Land Code; and
- (f) Division 35 respecting spousal property and the policy upon which that Division is based.

Determination of Fees and Rent

22.3 The Land Management Committee may recommend to Council a process for determining:

- (a) fees and rent for Interests and Licences in First Nation Land;
- (b) fees for services provided in relation to First Nation Land and compliance with this Land Code; and
- (c) processes and criteria for managing the First Nation's obligations in relation to revenue from lands.

Implementation of Policies

22.4 Rules, procedures and processes developed in accordance with section 22.2 and 22.3 will be considered by Council for implementation as Laws, Resolutions, policies or amendments to this Land Code.

Internal Procedures

- 22.5 The Land Management Committee may establish rules and procedures for the conduct of its meetings and general affairs, provided that any such rules and procedures are not inconsistent with any rules and procedures established by Council.
- 22.6 The Land Management Committee may recommend for Council's approval:
- (a) policies for the remuneration and recovery of expenses incurred by Land Management Committee members; and
 - (b) programs for the orientation and education of Land Management Committee members.

23. Land Management Committee Membership

Composition

- 23.1 The Land Management Committee will be made up of Eligible Voters appointed by Council in a manner so as to provide for a broad representation of the First Nation community.
- 23.1.1 A quorum of the Land Management Committee is at least two thirds of the number of members appointed to serve office on the Land Management Committee

Eligibility

- 23.2 Any Eligible Voter, whether or not resident on First Nation Land, is eligible to be appointed to the Land Management Committee under paragraph 23.1, except for:
- (a) an Eligible Voter convicted of an offence that was prosecuted by way of indictment or felony conviction within five years prior to the date of the appointment;
 - (b) an Eligible Voter convicted of a corrupt practice in connection with an election, including accepting a bribe, dishonesty or wrongful conduct; and
 - (c) an Eligible Voter who is a salaried staff member of the First Nation or member of Council unless that Eligible Voter resigns as a staff member or member of Council upon being appointed to the Land Management Committee.

Interim Land Management Committee

- 23.3 The interim Land Management Committee as it exists on the date of the Ratification Vote and as set out in Schedule A to this Land Code will hold office and carry out the duties of the Land Management Committee until the first Land Management Committee appointed under section 23.1 takes office.

23.4 [repealed, June 25, 2013]

Term

23.5 A person that is appointed as a member of the Land Management Committee shall hold office for a term of four years, unless specified otherwise in a Law enacted under section 23.7.

No Limit on Terms in Office

23.6 Nothing precludes an incumbent member of the Land Management Committee from being appointed for a further term.

Appointment Law

23.7 Council will enact a Law to establish the procedure for Land Management Committee appointments.

23.8 A Law enacted under section 23.7 shall include:

- (a) If applicable, such additional transitional rules as may be necessary for the first Land Management Committee;
- (b) a process to increase or decrease the number of members of the Land Management Committee to provide for broad representation of the First Nation community provided that in no case shall the number of members of the Committee be more than sixteen; and
- (c) a process to consult with elders, heads of families, and Members concerning the appointment of the Land Management Committee.

Vacancy on Land Management Committee

23.9 The office of a member of the Land Management Committee becomes vacant if the member, while holding office:

- (a) is or becomes ineligible to hold office under section 23.2;
- (b) ceases to be a Member;
- (c) is elected to Council or accepts employment as an employee of the First Nation;
- (d) is absent for three meetings of the Land Management Committee for a reason other than illness or incapacity without being authorized to be absent by the Chair of the Land Management Committee;
- (e) fails to disclose a conflict of interest as required under Part 5 of the Land Code;

- (f) dies or becomes mentally incompetent; or
- (g) resigns in writing.

Vacancy in Term

23.10 Where the office of a member of the Land Management Committee becomes vacant more than 90 days before the date when another appointment of Land Management Committee members would ordinarily be held, Council will forthwith appoint a replacement.

23.11 *[repealed, June 25, 2013]*

Balance of Term of Office

23.12 The term of a member of the Land Management Committee appointed under section 23.10 will be the balance of the term in respect of which the vacancy occurred.

Attributes of Committee Members

23.13 Having accepted an appointment to the Land Management Committee, a member of the Land Management Committee will accept the duties and obligations of membership and agree to observe and carry out those duties and obligations according to the terms and conditions of this Land Code.

23.14 Members of the Land Management Committee will endeavor to demonstrate the following attributes:

- (a) impartiality, honesty and integrity;
- (b) responsibility and accountability; and
- (c) confidentiality.

24. Chair of the Land Management Committee

Chair

24.1 The members of the Land Management Committee will select a Chair from among their members.

Alternate Chair

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

Duties of the Chair

24.3 The duties of the Chair are to:

- (a) chair meetings of the Land Management Committee;
- (b) ensure that financial statements relating to all activities of the Land Management Committee, including any applicable revenues and expenditures concerning First Nation Lands, are prepared and tabled with Council;
- (c) report to Council and the Members on the activities of the Land Management Committee;
- (d) monitor the presentation of the audited annual financial statements under section 19.5; and
- (e) perform such other duties as Council or the Land Management Committee may reasonably prescribe.

25. Registration of Interests

Interests must be Registered

25.1 *[repealed, date, 2016]*

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

25.3 No instrument that requires the consent of Council or approval by the Members may be registered in the Register unless a certified copy of the document that records the consent or approval is attached to the instrument.

25.4 Every person who receives an Interest in First Nation Land from a Member will provide an original copy of the instrument to the Lands Manager for registration in the Register.

25.4.1 Neither the First Nation, the Council, the Lands Manager, or any First Nation employee shall be liable for ensuring that an instrument that affects or purports to affect First Nation Land:

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

- 25.5 Provided Council has received a registerable copy of the following instruments, Council or its authorized delegate will ensure that each of the following instruments is deposited in the Register:
- (a) a grant of an Interest in, or Licence in relation to, First Nation Land;
 - (b) a transfer or assignment of an Interest in, or Licence in relation to, First Nation Land;
 - (c) a land use plan or subdivision plan; and
 - (d) this Land Code and any amendment to this Land Code.
- 25.6 *[repealed, date, 2016]*
- 25.7 Financial claims or other assertions of right which affect, or purport to affect, First Nation Lands may, in accordance with all Laws and other applicable law, be recorded in the Register.
- 25.8 The types of instruments which may be recorded in the Register under section 25.7 include the following:
- (a) judgments;
 - (b) court orders;
 - (c) rights of first refusal;
 - (d) certificates of pending litigation;
 - (e) caveats;
 - (f) liens;
 - (g) assignments of rent;
 - (h) options to purchase; and
 - (i) tax certificates.

PART 7 INTERESTS AND LICENCES IN LAND

26. Limits on Interests and Licences

All Dispositions in Writing

- 26.1 An Interest in, or Licence in relation to, First Nation Land may only be created, granted, disposed of, assigned or transferred by an instrument issued in accordance with this Land Code.

Standards

- 26.2 Council may, after full and fair consideration of any recommendations made by the Land Management Committee, establish mandatory standards, criteria and forms for Interests and Licences in First Nation Land.

Improper Transactions Void

- 26.3 A deed, Lease, contract, document, agreement or other instrument of any kind by which the First Nation, a Member or any other Person purports to create, grant, dispose of, assign or transfer an Interest or Licence in relation to First Nation Land after the date this Land Code comes into effect is void if it contravenes this Land Code.

Non-Members

- 26.4 Subject to section 26.5, a Person who is not a Member may hold an Interest or a Licence in First Nation Land including, for certainty, a Life Estate.
- 26.5 A Person who is not a Member may not hold a Permanent Interest or Residential Allocation in First Nation Land.

Limits on Life Estates

- 26.5.1 Unless the Disposition of a Life Estate specifically provides otherwise, a Life Estate does not create or include any rights to:
- (a) use, develop, or dispose of Natural Resources;
 - (b) transfer or assign the Life Estate or any sub-interest therein;
 - (c) receive rents or other revenue from the lands subject to the Life Estate.
- 26.5.2 A Permanent Interest or Residential Allocation may be held in trust only if the Trustee and all individuals holding the beneficial interest are Members, and the trust agreement, or other document which appoints the Trustee, is registered in the Register.

Grants to Non-Members

- 26.6 Subject to section 26.7, the written consent of Council must be obtained for any grant or disposition of an Interest or Licence in First Nation Land to a Person who is not a Member.
- 26.7 Unless a document creating or disposing of an Interest expressly states otherwise, the following transactions do not require the written consent of Council:
- (a) Sub-Leases;
 - (b) assignments of Sub-Leases;
 - (c) Mortgages of Leaseholds; and
 - (d) Life Estates.
- 26.7.1 Sections 25.2, 25.4, and 26.6 of this Land Code do not apply to month-to-month periodic tenancies or to Leaseholds with a term of one year or less unless Council specifies otherwise by Resolution.

27. Existing Interests

Continuation of Existing Interests

- 27.1 An Interest or Licence in First Nation Land that is in effect when this Land Code comes into effect will, subject to this Land Code, continue in force in accordance with the terms and conditions of that Interest or Licence.
- 27.2 For greater certainty, section 27.1 applies to a Permanent Interest in First Nation Land.
- 27.3 Council may, subject to an applicable ruling under Part 8 or by a court of competent jurisdiction, cancel or correct any Interest or Licence issued or allotted in error, by mistake or by fraud.

28. New Interests and Licences

Authority to Make Dispositions

- 28.1 Council may under this Land Code grant:
- (a) Interests and Licences in First Nation Land; and
 - (b) Licences to take Natural Resources from First Nation Land.

Permanent Interest Holder Consent Required

28.1.1 Council must obtain the consent of the Permanent Interest holder or holders for any grant by Council of an Interest or Licence in relation to land subject to a Permanent Interest.

Conditional Grant

28.2 The grant of an Interest or Licence under section 28.1 may be made subject to conditions.

Role of the Land Management Committee

28.3 The Land Management Committee may advise Council on the granting of Interests and Licences and may be authorized to act as a delegate of Council under section 6.4 in the granting of such Interests and Licences.

28.4 Council in consultation with the Land Management Committee will develop and enact a Law establishing a process that:

- (a) Sets out the principles and factors that Council must consider when deciding whether to grant or dispose of an Interest or Licence in Community Land;
- (b) Requires the Land Management Committee to make a written recommendation concerning all of the following:
 - i. the proposed creation of a Permanent Interest or Residential Allocation;
 - ii. a proposed disposition in respect of Community Land for a term of forty-nine (49) years or more, except rights of way for utilities servicing First Nation Land;
 - iii. a proposed renewal of a Disposition in respect of Community Land for a term of forty-nine years or more, or that would have the effect of extending the original Disposition for a term exceeding forty-nine years, except rights of way for utilities servicing First Nation Land;
 - iv. a proposed Disposition in respect of Community Land for Commercial Purposes for a term of less than forty-nine (49) years where one or both of the following applies:
 1. the value of the proposed improvements is \$500,000 or greater; or
 2. the Disposition involves one acre or more of Community Land; and
 - v. any other proposed Disposition, or class of Disposition, that Council, by Resolution, declares to be subject to this section.

- (c) Sets out the authority of Council to grant or dispose of an Interest or Licence which varies from a recommendation of the Land Management Committee; and
- (d) dispute resolution.

29. Permanent Interests

Application

- 29.1 This Division applies to Permanent Interests and Permanent Interest holders.
- 29.2 Subject to Division 26, a Permanent Interest in respect of a parcel of land is an Interest that entitles the Member holding that Interest to:
- (a) permanent possession of the land;
 - (b) develop and benefit from the Natural Resources of the land;
 - (c) grant subsidiary Interests in the land, including Leaseholds, Life Estates and Easements;
 - (d) transfer, devise or otherwise dispose of the land to another Member;
 - (e) subject to all Laws, and any applicable laws, grant Licences to take Natural Resources from the land, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances and for other uses of land not constituting an Interest in the Land; and
 - (f) any other rights, consistent with this Land Code, that are attached to lawful possession under subsection 20(1) and Location Tickets under subsection 20(3) of the Indian Act.
- 29.2.1 For certainty, a Permanent Interest holder may grant a Leasehold to himself or herself in the same manner as to another person notwithstanding any common law rule to the contrary.
- 29.3 Prior to a grant of a Permanent Interest in First Nation Land, the Land Management Committee will review the proposed interest and advise Council and the proposed grantee of the proposed interest as to measures that may be necessary or desirable to:
- (a) protect the interests of the First Nation and Members in respect of the proposed Permanent Interest; or
 - (b) protect the interests of the proposed grantee of the Permanent Interest.

30. Residential Allocations

Allocation of Residential Lots

- 30.1 Council may by Resolution grant a Residential Allocation from available Community Land to a Member in accordance with any Laws, policies and procedures established by Council and all applicable laws.
- 30.2 Council will deposit in the Register a Certificate of Residential Allocation in respect of a parcel allocated to a Member under section 30.1.
- 30.3 No community approval or Ratification Vote is required for the granting of a Residential Allocation to a Member provided Council grants the Residential Allocation by Resolution and in compliance with this Land Code and any Laws, Land Use Plans and Council policies.
- 30.4 Subject to this Land Code and any Laws, Land Use Plans, Resolutions or policies passed under it, a Member who has been granted a Residential Allocation has the following rights and responsibilities:
- (a) exclusive possession of the land for Residential Use only;
 - (b) the right to transfer, devise or otherwise dispose of their Residential Allocation to another Member;
 - (c) the right to grant a Life Estate; and
 - (d) any other rights and responsibilities set out in the Land Code or Laws.
- 30.5 If a Member who holds a Residential Allocation abandons the land or uses the land for a purpose other than for Residential Use for a period of more than 8 consecutive weeks, the Residential Allocation is automatically cancelled and the lands subject to the Residential Allocation shall become Community Land and any structures affixed thereto vest in the First Nation.
- 30.6 In addition to the automatic cancellation of a Residential Allocation set out in section 30.6, Council may, by Resolution, cancel a Residential Allocation that was issued in error or in violation of this Land Code provided that Council gives the holder at least 30 days written notice of an intention to cancel the Residential Allocation and provides the holder with an opportunity to make submissions and arguments.
- 30.7 A Life Estate in a Residential Allocation confers on the holder no greater rights than those enjoyed by the holder of a Residential Allocation.

31. Transfer and Assignment of Interests

Transfer of Interests

31.1 A Member may transfer or assign in writing an Interest held by that Member in First Nation Land to another Member or the First Nation.

Consent of Council

31.2 Except for transfers or assignments under section 31.1 or section 26.7 and transfers that occur by operation of Law, including transfers of estates by testamentary disposition or in accordance with a Law enacted under Division 35:

- (a) there will be no transfer or assignment of an Interest or Licence in First Nation Land without the written consent of Council; and
- (b) the grant of an Interest or Licence is deemed to include paragraph 31.2(a) as a condition of any subsequent transfer or assignment.

31.3 For greater certainty, section 31.2 does not apply to a Permanent Interest.

Ceasing to be a Member

31.4 A person who ceases to be a Member shall within six months of ceasing to be a Member transfer any Permanent Interest or Residential Allocation that he or she holds to the First Nation or to another Member.

31.5 Where a Member does not transfer his or her Permanent Interest or Residential Allocation in accordance with section 31.4 the Permanent Interest or Residential Allocation shall, six months and one day after the person ceases to be a Member, be cancelled, the Interest shall revert to the First Nation and the land shall become Community Land.

31.6 Where a Permanent Interest or Residential Allocation reverts to the First Nation under section 31.5, the person ceasing to be a Member shall remain liable for any obligations or monies owing pursuant to any Interest he or she held or granted prior to the date that the Permanent Interest or Residential Allocation reverts to the First Nation..

32. Limits on Mortgages, Seizures and Tax

Protections

32.1 In accordance with the Framework Agreement, sections 29, 87, 89(1) and 89(2) of the *Indian Act* continue to apply to First Nation Land, but section 89 is modified as set out below.

Mortgage of Member's Interest

- 32.2 (a) Subject to paragraph (c), a Member holding an Interest in First Nation Land, including, for certainty, a Leasehold under paragraph 29.2(c), may grant a Mortgage in respect of that Interest to any Person.
- (b) Subject to the other requirements of this Division having been met, a Leasehold held by an Indian, as that term is defined in the *Indian Act* is subject to charge, pledge, mortgage, attachment, levy, seizure, distress, and execution, and the mortgagee has all the same legal and equitable rights it would have had if the Leasehold were held by a non-Indian and, for greater certainty, the mortgagee has a right of access onto First Nation Lands and onto the Leasehold lands if necessary to carry out seizure, forfeiture or any related matter.
- (c) Permanent Interests and Residential Allocations may be subject to a Mortgage or charge only to the First Nation.

Mortgages of Leasehold Interests

- 32.3 A Leasehold may be subject to charge or Mortgage without the written consent of Council.

Time Limit

- 32.4 The term of a charge or Mortgage of a Leasehold will not exceed the lesser of:
- (a) the term of the Lease;
- (b) 25 years; or
- (c) such other period up to a maximum of 35 years as may receive Council approval by Resolution.

Default in Mortgage

- 32.5 In the event of default in the terms of a charge or Mortgage, the mortgaged 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 was registered in the Register; and
- (b) a reasonable opportunity to redeem the charge or Mortgage was given to Council; or in the case of land held under Permanent Interest, to the holder of the Permanent Interest and to Council.
- 32.6 For greater certainty, section 32.5 applies to a charge or Mortgage between Members.

Power of Redemption

32.7 If Council exercises its power of redemption under paragraph 32.5(b), the First Nation becomes the Interest holder and takes the position of the chargor or mortgagor for all purposes after the date of the redemption.

33. Residency and Access Rights

Civil Remedies

33.1 Subject to a Law enacted under paragraph 6.2(n) all civil remedies for trespass are preserved.

No Obligation on the First Nation

33.2 A right of residence or access does not imply any financial obligation on the part of the First Nation.

No Liability on the First Nation

33.3 No liability is imposed upon the First Nation in respect of any person exercising a right of access in accordance with this Land Code for injuries or damages suffered on account of the condition or state of First Nation Land.

34. Transfers on Death or Mental Incompetence

Right of Widow or Widower

34.1 In the event that:

- (a) a Member holding an Interest in First Nation Land dies intestate and is survived by a Spouse or dependant 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 or dependant may, where their usual place of residence was with the Member at the time of the Member's death or declaration of incompetence, continue to reside on and use the land until the Member's Interest is disposed of under this section.

34.2 A Spouse or dependant referred to in section 34.1, whether or not their usual place of residence was with the Member at the time of the Member's death or declaration of incompetence, may make application for transfer of the Member's Interest, and Council will, subject to this Land Code, decide the application on its merits.

Recommendation of Family Members

34.3 In the event that:

- (a) no other provision has been made by a Member referred to in section 34.1 for the disposition of the Interest in the First Nation Land;
- (b) the Member's Spouse or dependant does not within a reasonable time make application under section 34.2; or
- (c) a member of the Member's Immediate Family disputes the continued residence on or use of the land by the Member's Spouse or dependant,

Council will take reasonable steps to advise other members of the Member's Immediate Family that the land held by the Member is available for disposition or is in dispute and the Member's Immediate Family may, with the assistance of the Panel if requested, recommend who among them is to receive the Interest in the land.

34.4 If a Member referred to in section 34.1 has no Immediate Family, or if the Immediate Family does not within a reasonable period of time after the date of such Member's death or declaration of incompetence recommend who is to receive the Interest, Council will decide who is to receive the Interest and may consult the Member's Extended Family to provide advice on the disposition of the Interest.

34.5 Subject to this Land Code, Council will make best efforts to implement a recommendation made under section 34.3 or 34.4.

34.6 For greater certainty, nothing in sections 34.1 to 34.5, both inclusive, is intended to affect the ability of a Member's spouse or dependant to dispose of assets or improvements other than the Member's Interest in First Nation Land.

35. Spousal Property Law

Development of Rules and Procedures

35.1 Within twelve months after the date this Land Code comes into effect Council will enact a spousal property Law prescribing 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

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

General Principles

- 35.3 The rules and procedures developed by the Land Management Committee under section 35.2 will take into account the following general principles:
- (a) the children of the Spouses, if any, should have a right to reside in the matrimonial home;
 - (b) the Spouses should resolve spousal property matters by contract or agreement;
 - (c) each Spouse should have an equal right to possession of the matrimonial home;
 - (d) each Spouse should be entitled to an undivided half interest in the matrimonial home as a tenant in common;
 - (e) the rules and procedures will not discriminate on the basis of sex; and
 - (f) only Members are entitled to hold a spousal interest in First Nation Land or a charge against a spousal interest in First Nation Land.

Interim Law

- 35.4 Council may enact an interim spousal property Law at any time within the twelve month period prescribed in section 35.1.
- 35.5 A Law enacted under section 35.4 will be deemed to be repealed twelve months after the coming into force of this Land Code but may be re-enacted in whole or in part in accordance with section 35.1.

PART 8 DISPUTE RESOLUTION

36. Intent

- 36.1 The intent of this Part is to ensure that all Persons entitled to possess, reside upon, use or otherwise occupy First Nation Land:
- (a) do so harmoniously with due respect for the rights of others and of the First Nation; and
 - (b) have access to First Nation procedures to resolve disputes.

Informal Discussions

- 36.2 The First Nation intends that wherever possible, a dispute in relation to First Nation Land will be resolved through informal discussion by the parties to the dispute and nothing in

this Part will be construed to limit the ability of any Person to settle a dispute without recourse to this Part.

Staged Processes

36.3 The First Nation further intends that a dispute in relation to First Nation Land that is not resolved by informal discussion will, except as otherwise provided, progress in sequence through the following stages provided for in this Part:

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

Who May File A Dispute

36.4 The following Persons may file a Notice of Dispute under this Part:

- (a) a Member who claims an Interest in First Nation Land based on a Registered Interest;
- (b) a Person who has a dispute with another Person or with the First Nation in relation to the possession, use or occupation of First Nation Land;
- (c) the First Nation when asserting an Interest in First Nation Land;
- (d) the First Nation when disputing the possession, use or occupation of First Nation Land; and
- (e) the First Nation or the holder of an Interest or a Licence when disputing the rent or other payments to be made under an Interest or a Licence.

36.5 For greater certainty, disputes that originated before this Land Code comes into effect may be decided under this Part.

Dispute Resolution Not Available

36.6 Dispute resolution is not available under this Part for disputes in relation to:

- (a) decisions relating to housing allocation;
- (a.1) the rights and responsibilities of landlords and tenants, if the Council has enacted a residential tenancy Law which specifies a dispute resolution process;

- (b) decisions of Council to grant or refuse to grant an Interest or Licence in First Nation Land; or
- (c) any dispute to which a spousal property law enacted under Division 35 applies.

Duty of Fairness

36.7 All Persons involved in a dispute under this Part must be:

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

Rules and Procedures

36.8 Council may prescribe such rules, policies, procedures, forms and reasonable fees not inconsistent with this Land Code, as may be necessary to give effect to this Part including implementation of recommendations of the Panel made under section 41.6;

Civil Remedies Preserved

36.9 Nothing in this Part will be construed to prevent a party to a dispute in respect of First Nation Land from applying to have the dispute resolved in a court of competent jurisdiction.

36.10 Once a Notice of Dispute has been filed under section 38.1, a party to a dispute may not commence proceedings under section 36.9 unless:

- (a) proceedings under this Part have been completed; or
- (b) the parties to the dispute have consented.

Challenge to Validity of Law

36.11 Nothing in this Part will be construed to prevent a party to a dispute from challenging the validity of a Law in a court of competent jurisdiction.

Appeal of Decision

36.12 Subject to any exception established by Law a decision of the Panel may be appealed to the Federal Court of Canada, Trial Division.

37. Dispute Resolution Panel

Eligibility List to be Established

37.1 Council will establish an eligibility list (the “Eligibility List”) comprised of at least five (5) individuals from which members of a Panel may be appointed to hear a dispute.

Members or Non-Members

37.2 For greater certainty, the individuals appointed to the Eligibility List may be Members or non-Members.

37.3 *[repealed, date, 2016]*

Dispute Resolution Facilitator

37.4 Council will appoint one of the individuals on the Eligibility List as the Dispute Resolution Facilitator.

Term of Office

37.5 *[repealed, date, 2016]*

37.6 Appointments to the Eligibility List will be for a term of four years provided that if an appointment is made to replace an individual who is unable or unwilling to complete a term, the appointment will be made for the remainder of the term of the individual being replaced.

37.7 Council will appoint or re-appoint individuals to the Eligibility List at least thirty days prior to the expiry of the term of the individual whose term is the subject of the appointment or re-appointment.

Advisors, Mediators and Arbitrators

37.8 Council may appoint or contract with expert advisors, mediators, arbitrators, professionals or other Persons to assist in resolving disputes under this Part.

38. Procedure to File a Dispute

38.1 A Person who wishes to resolve a dispute with another Person or the First Nation in relation to the possession, use or occupation of First Nation Land may file a written Notice of Dispute with the Lands Manager setting out:

- (a) the nature of the dispute;
- (b) the facts and supporting arguments upon which the Person filing the Notice of Dispute relies; and
- (c) the relief that is sought.

Limitation Period

38.2 A Notice of Dispute must be filed within sixty (60) days of the Person filing the Notice of Dispute becoming aware of the decision, act or omission being disputed.

38.3 Section 38.2 does not apply to :

- (a) disputes under section 36.5; or
- (b) the First Nation in a dispute under paragraph 36.4(d).

39. Facilitated Discussions

First Stage Procedure

39.1 Within 30 days of receiving a Notice of Dispute under section 38.1 the Lands Manager will prepare and deliver a report on the dispute and a copy of the Notice of Dispute to the Dispute Resolution Facilitator.

39.2 As soon as practicable after receiving a report and Notice of Dispute under section 39.1 the Facilitator or, at the Facilitator's request, another person not affected by the dispute and designated by the Facilitator for that purpose, will make best efforts to meet with the parties and attempt to resolve the dispute through facilitated discussions.

Timing

39.3 In setting the date and time of the meeting referred to in section 39.2 the Facilitator or other person appointed for the purposes of section 39.2 may consider any need to:

- (a) obtain further information;
- (b) give notice of the dispute to others who have or may have an interest in the dispute; or
- (c) obtain professional advice in relation to the dispute.

39.4 Where the Facilitator or other person appointed under section 39.2 concludes that the dispute cannot be resolved through facilitated discussions, he or she may in his or her sole discretion direct that the dispute proceed to mediation or hearing by a Panel.

40. Mediation

Appointment

40.1 A mediator will be selected jointly by the parties to the dispute and the Facilitator.

40.2 If the parties to the dispute and the Facilitator are unable to agree on a mediator, the dispute will be heard by a Panel.

Authorities

- 40.3 A mediator has no jurisdiction to decide the dispute without the agreement of the parties to the dispute.
- 40.4 At the conclusion of mediation, the mediator will submit a written report on the mediation proceedings to the parties to the dispute and the Facilitator.

41. Hearing by Dispute Resolution Panel

Hearing of Disputes

- 41.1 If a dispute is not resolved by mediation, a Panel constituted in accordance with this Division will hear the dispute at a place and time to be determined by the duly constituted Panel.

Hearing Procedures

- 41.2 Unless otherwise provided in this Part, a Panel constituted in accordance with this Division may establish procedures consistent with this Land Code for hearing disputes.

Hearing by Three Members

- 41.3 A dispute will be heard by three individuals on the Eligibility List who have no interest or conflict of interest in the dispute, selected as follows:
- (a) one Panelist appointed by each of the primary parties to the dispute from among the individuals listed on the Eligibility List; and
 - (b) one Panelist selected by the Panelists appointed under paragraph 41.3(a) from the Eligibility List, who will act as the chair of the Panel.
- 41.4 Where the Parties to a dispute are unable to agree on an appointment under paragraph 41.3(a) or the appointees are unable to agree on a chair under paragraph 41.3(b), the appointment or chair, as the case may be, will be decided by an Arbitrator under this Part.
- 41.4.1 Where one party to a dispute refuses or fails to appoint a Panelist under paragraph 41.3(a), the Facilitator will select a Panelist on behalf of that party.
- 41.4.2 For greater certainty, the Facilitator may be selected as a Panelist under section 41.3 or 41.4.

Decision-making Authority

- 41.5 The Panel may, after hearing a dispute:
- (a) confirm in whole or in part the decision that is the subject of the dispute;
 - (b) reverse in whole or in part the decision that is the subject of the dispute;

- (c) substitute its own decision for the decision in dispute;
- (d) direct that an action be taken or ceased;
- (e) refer the subject of the dispute for reconsideration by the decision maker;
- (f) make an order to give effect to its decision, including any necessary order for the survey of an Interest in First Nation Land, the registration of an Interest in First Nation Land, and the allocation of the costs of any incidental measures to be taken to give effect to such an order; or
- (g) refer the matter to arbitration under section 42.1.

Recommendations by Panel

41.6 In addition to making a determination under section 41.5, the Panel may:

- (a) recommend to Council the suspension of any Law or decision made by Council for such period as may be necessary for Council to reconsider, amend or repeal such law or decision, provided that any amendment or repeal of a 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

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

Decisions in Writing

41.8 Decisions of the Panel will be in writing.

Decisions Final and Binding

41.9 Subject to section 36.12, a decision of the Panel is final and binding.

Improper Influence

41.10 Any attempt by a Person who has filed a Notice of Dispute to improperly influence a decision of the Panel will, in addition to any other remedies which may be available, result in the termination of proceedings under this Part and the matter being disputed will remain in effect as originally decided.

42. Arbitrator

Referral to Arbitrator

42.1 If the Panel is unable to decide the dispute or if the Panel otherwise deems it advisable that the matter be referred to arbitration, the Panel may refer a matter to an Arbitrator.

Conditions

42.2 The Panel may not refer a matter to an Arbitrator unless all parties to the dispute agree:

- (a) to share equally in the costs of the Arbitrator; and
- (b) to be bound by the decision of the Arbitrator.

Arbitrator

42.3 An Arbitrator will be an individual selected or consented to by all parties to the dispute.

Other Evidence

42.4 An Arbitrator may hear and consider evidence from an expert advisor, professional or other Person.

Decision-making Authority

42.5 The Arbitrator may, after hearing a dispute:

- (a) make any decision that the Panel may make under section 41.5; and
- (b) make any recommendation that the Panel may make under section 41.6.

Reasons for Decisions

42.6 The Arbitrator will give written reasons for their decision within thirty days after the date of the decision.

Binding Decisions

42.7 Subject to section 36.12, a decision of the Arbitrator is final and binding.

43. Costs

43.1 *[repealed, date, 2016]*

43.2 *[repealed, date, 2016]*

43.3 *[repealed, date, 2016]*

43.4 *[repealed, date, 2016]*

Costs

43.5 Unless otherwise ordered by the Dispute Resolution Panel or the Arbitrator or provided in this Land Code the Parties to a dispute will bear their own costs.

PART 9 OTHER MATTERS

44. Liability

Liability Insurance

44.1 Council will arrange for, maintain and pay 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 for acts done in good faith arising from those activities.

Extent of Coverage

44.2 Council will determine the extent of insurance coverage under section 45.1.

44.3 Every employee of the First Nation whose responsibilities include collecting or accounting for revenue from First Nation Land must be bondable.

45. Offences, Penalties and Enforcement

Application of the Criminal Code

45.1 Unless otherwise provided by a Law, the summary conviction procedures of Part XXVII of the *Criminal Code* apply to offences under this Land Code and under a Law.

Other Penalties and Enforcement Mechanisms

45.1.1 Council may enact Laws providing for enforcement mechanisms including ticketing, stop work orders, restorative orders, and fines, or to incorporate enforcement processes or mechanisms from provincial or local government sources.

Justices of the Peace

45.2 Council may enact Laws respecting appointment of justices of the peace or the establishment of a community justice process for the enforcement of this Land Code and Laws.

Courts

45.3 If no justice of the peace is appointed or community justice process is established, this Land Code and Laws are to be enforced by a court of competent jurisdiction.

46. Amendment

Approval by Members

46.1 Subject to section 46.2, Amendment of this Land Code must receive approval by Ratification Vote.

46.2 Council may adopt minor amendments to this Land Code following the procedure set out in Division 7 of this Land Code for the enactment of Laws.

46.3 For greater clarity, minor amendments include amendments ordered by any court of competent jurisdiction and administrative amendments that are minor in nature and that have no effect on the substance of the Land Code, such as:

- (a) corrections to grammatical or typographical errors;
- (b) minor improvements to the language of the Land Code that bring out more clearly the intent without changing the substance of any provision; and
- (c) changes required to reconcile seemingly inconsistent provisions.

47. Commencement

Coming into Effect

47.1 This Land Code will come into effect if:

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

Effective Date

47.2 This Land Code will come into effect on the later of:

- (a) the first day of the month following certification of this Land Code by the verifier;
or
- (b) the date the Individual Agreement is executed by Canada.

SCHEDULE A

INTERIM LAND MANAGEMENT COMMITTEE

(Section 23.3)

CHAIR

Helen JACK

FAMILY REPRESENTATIVES

VOTING REPRESENTATIVES

ALTERNATES

Lou CLAXTON
Vernon HARRY
Richard HORNE
Helen JACK
Irvine JIMMY
Herb PELKEY
Jeannie SAM
Willie THOMAS
Harvey UNDERWOOD
Tony UNDERWOOD
Ralph UNDERWOOD
Joey PELKEY, Sr.

Belinda CLAXTON (Co-chair)
Ernie HARRY
Karen HARRY
Samantha ETZEL
Kevin WILSON
Frank PELKEY
Stan SAM
Cecelia THOMAS
Floyd UNDERWOOD
Gus UNDERWOOD
Bruce UNDERWOOD
Joey PELKEY, Jr.

EX-OFFICIO

Chief Allan CLAXTON