



OPASKWAYAK CREE NATION

Annex No. 1

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Opaskwayak Cree Nation Land Code

**Ratified by the Opaskwayak
Cree Nation vote on
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Certified

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Date

Mel W Jacobs
Mel W Jacobs, Verifier

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OPASKWAYAK CREE NATION LAND CODE

PREAMBLE

WHEREAS the Opaskwayak Cree Nation has a profound relationship with the land that is rooted in respect for the Spiritual value of the Earth and the gifts of the Creator and has a deep desire to preserve its relationship with the land;

AND WHEREAS Opaskwayak Cree Nation's Cree views land as being sacred, a gift from the Creator, From this cultural view, the land is held collectively for the use of all the community members with its rich resources belonging to everyone;

AND WHEREAS Opaskwayak Cree Nation members' responsibility is to protect the land and keep it safe for future generations, the land and its resources are held by the people for the people and it is an important value and basic law of the Inniwuk (Our People);

AND WHEREAS the Opaskwayak Cree Nation's vision is to have our people determine a true Aboriginal self-government which incorporates our cultural values and traditions as the center of this vision and collective holding of land which is based on our own unique history;

AND WHEREAS while pursuing this vision of self-government, independence and self-sufficiency, we are determined to continue to progress towards the future through planned social and economic growth providing a range of social, education and economic services necessary to support and raise our standard of living;

AND WHEREAS this vision will be reached through development of our human resources and economic base, the foundation of which is our land base and natural resources;

AND WHEREAS Opaskwayak Cree Nation has entered into the *Framework Agreement on First Nation Land Management* with Canada on February 12, 1996, as amended, and as ratified on behalf of the Government of Canada by the *First Nations Land Management Act*, S.C. 1999, C. 24;

AND WHEREAS the Opaskwayak Cree Nation (OCN) has the option of withdrawing its land from the land provisions of the *Indian Act* in order to exercise control over its land and resources for the use and benefits of its members, rather than having its land managed on its behalf by Canada;

NOW THEREFORE, this *Opaskwayak Cree Nation Land Code* is hereby enacted as the fundamental land law of the Opaskwayak Cree Nation.

**PART 1
PRELIMINARY MATTERS**

1. Title

Title

1. The title of this enactment is the *Opaskwayak Cree Nation Land Code*.

2. Interpretation

Definitions

The following definitions apply in this *Land Code*:

“Absolute Majority” means 50% + 1 of the whole Chief and Council;

“Arbitration Panel” means the panel agreed upon by parties to resolve a dispute;

“Community Consultation” means process of information being presented to Members either through a Community Meeting, notices, door-to-door, or media;

“Community Land” means any Opaskwayak Cree Nation Land in which all Members have a common interest;

“Community Meeting” means a meeting of Opaskwayak Cree Nation (OCN) members under Part 3 of this *Land Code*;

“Community Vote” is a general vote of Opaskwayak Cree Nation (OCN) eligible voting members conducted under this *Land Code* at a Community Meeting;

“Chief and Council” means the Council of the Opaskwayak Cree Nation (OCN) or any successor elected government of OCN;

"Dispute Resolution Panel" means a panel appointed by Chief and Council to review, and/or decide on resolution to a dispute.

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

"Eligible Registered Voter" means an Eligible Voter who has registered to vote at a Ratification Vote;

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

"Framework Agreement" means the *Framework Agreement on First Nation Land Management* entered into between the Minister of Indian Affairs and Northern Development and fourteen First Nations, including Opaskwayak Cree Nation, on February 12, 1996, as amended;

"Immediate Family"; in respect of a person, means the person's parent, sister, brother, child, custom adopted child or spouse;

"Individual Transfer Agreement" means the Transfer Agreement between the Opaskwayak Cree Nation and Her Majesty the Queen in Right of Canada in accordance with Section 6.1 of the *Framework Agreement*, dated February 12, 1996;

"Interest", in relation to First Nation land, means any interest, rights or estate of any nature in or to that land, including a lease, easement, right of way, servitude, or profit à prendre, but does not include title to that land in accordance with Section 1 of the *Framework Agreement*, dated February 12, 1996;

"Land Authority" means a body with responsibility for OCN Land management;

"Land Department" means the technical staff responsible for OCN Land administration;

"Land Code" means *Opaskwayak Cree Nation (OCN) Land Code*;

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

"Land Resolution" means a resolution of Chief and Council made pursuant to this *Land Code*;

"Licence", in relation to First Nation Land, means any right of use or occupation of First Nation land, other than an interest in that land in accordance with Section 1 of the *Framework Agreement*, dated February 12, 1996;

"Member" means a person whose name appears on the Opaskwayak Cree Nation Membership List or is entitled to appear on the OCN membership roll;

"OCN" means the Opaskwayak Cree Nation;

"OCN Land" means all the lands referred to in this *Land Code*, including all the interests, rights and resources that belong to those reserve lands;

"OCN Land Register" means the register maintained by the Opaskwayak Cree Nation (OCN) for the registration of documents relating to OCN Land under this *Land Code*;

"Person" means any person, including an OCN Member, who has any Interest or License in OCN Land;

"Ratification Vote" means a vote as set out in this *Land Code*;

"Resolution" means a Band Council Resolution (BCR) enacted under this *Land Code*;

"Spouse" means a person who is married to another, whether by a traditional, religious or civil ceremony;

"Spousal Interest" means the Interest of the Spouse in OCN Land, which will be dealt with in a Land Law, in case of marriage breakdown, and shall not include any other interest not related to OCN Land.

Gender

- 2.2 Wherever the singular and the masculine are used throughout this *Land Code*, the same shall be construed as meaning the plural, or the feminine or neuter where the context or the parties hereto so require.

Opaskwayak Cree Nation Land Code

Paramountcy

- 2.3 If there is an inconsistency between this *Land Code* and any other enactment of Opaskwayak Cree Nation in regard to the management, administration or governance of Lands, including by-laws enacted pursuant to Section 81 of the Indian Act, this *Land Code* prevails to the extent of the inconsistency.

Culture and traditions

- 2.4 The structures, organizations and procedures established by or under this *Land Code* shall be consistent with the culture, traditions and custom of OCN, unless otherwise provided.

Non-abrogation (not taking away)

- 2.5 This *Land Code* does not abrogate or derogate from any aboriginal, treaty or freedoms that pertain now or in the future to OCN or its members.

Fair Interpretation

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

Lands and interest affected

- 2.7 A reference to "Land" in this *Land Code* means all rights and resources in and of the land, and includes:
- (a) the water, beds underlying water, riparian rights, air space and renewable and non-renewable resources in and of that land, to the extent that these are under the jurisdiction of Canada or OCN; and
 - (b) all the Interests and Licenses transferred to OCN by Her Majesty in Right of Canada listed in the Individual Transfer Agreement

3. Authority to Govern

Origin of authority

- 3.1 By enacting this *Land Code*, OCN is giving effect to its aboriginal title in that portion of its territories comprised of OCN Land.

Flow of authority

- 3.2 The authority of OCN to govern and administer its lands and resources flows from the Creator to the people of OCN, and from the people to the Chief and Council according to customs, traditions and laws.

4. Purpose

Purpose

- 4.1 The purpose of this *Land Code* is to set out the principles, guidelines and processes by which OCN will exercise control over its lands and resources consistent with the *Framework Agreement*.

5. Description of OCN Lands

OCN Land

- 5.1 OCN Land includes all reserve lands listed in the Individual Transfer Agreement and such other lands as may be included in the Individual Transfer Agreement as amended from time to time:
- Opaskwayak Cree Nation Reserve 21A
 - containing about 1,590 acres more or less including mines and minerals;
 - Opaskwayak Cree Nation Reserve 21B
 - containing about 150 acres more or less including mines and minerals;
 - Opaskwayak Cree Nation Reserve 21C
 - containing about 41 acres more or less including mines and minerals;

- **Opaskwayak Cree Nation Reserve 21D**
- containing about 177 acres more or less including mines and minerals;
- **Opaskwayak Cree Nation Reserve 21D, Salt Channel**
- containing about 649 acres more or less including mines and minerals;
- **Opaskwayak Cree Nation Reserve 21E**
- containing about 5,208 acres more or less including mines and minerals;
- **Opaskwayak Cree Nation Reserve 21F**
- containing about 366 acres more or less including mines and minerals;
- **Opaskwayak Cree Nation Reserve 21G**
- containing about 10 acres more or less including mines and minerals;
- **Opaskwayak Cree Nation Reserve 21I**
- containing about 893 acres more or less including mines and minerals;
- **Opaskwayak Cree Nation Reserve 21J**
- containing about 120 acres more or less including mines and minerals;
- **Opaskwayak Cree Nation Reserve 21K**
- containing about 328 acres more or less including mines and minerals;
- **Opaskwayak Cree Nation Reserve 21L**
- containing about 324 acres more or less including mines and minerals;
- **Opaskwayak Cree Nation Reserve 21N**
- containing about 261 acres more or less including mines and minerals;
- **Opaskwayak Cree Nation Reserve 21P**
- containing about 1,583 acres more or less including mines and minerals;
- **Opaskwayak Cree Nation 21 - Stoney Point**
- containing about 48 acres more or less including mines and minerals;
- **Opaskwayak Cree Nation Root Lake Reserve 231**
- containing about 60 acres more or less including mines and minerals;
- **Opaskwayak Cree Nation 27A - Carrot River Saskatchewan**
- containing about 3,194 acres more or less including mines and minerals.

Additional Lands

- 5.2 Land which becomes a reserve through a Land claim settlement or treaty Land entitlement or Land exchange or any other process may be made subject to this Land Code, and to an environmental assessment satisfactory to OCN.

Inclusion of land or interest

- 5.3 When the relevant conditions in Section 5.2 are met, Chief and Council shall call a Community Meeting under Section 11(b) and, after receiving their input, may by enacting a Land Resolution, declare the land or interest be subject to this *Land Code*.

**PART 2
OPASKWAYAK CREE NATION LEGISLATION**

6. Law-Making Powers

Council may make Laws

- 6.1 Chief and Council may make Land Laws which are consistent with this *Land Code*, respecting:
- (a) the development, conservation, protection, management, use and occupancy of OCN Land;
 - (b) Interests and Licenses in relation to OCN Land; and
 - (c) any matter necessary or ancillary to Land Laws respecting OCN Land.

Example of Laws

- 6.2 For greater certainty, Chief and Council may make Land Laws including, but not limited to:

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

7. Law-Making Procedures

Request for Land Laws

- 7.1 A request for the development of a Land Law may be introduced to Chief and Council by:
- (a) the Chief; or
 - (b) a Councillor; or
 - (c) the General Manager, or
 - (d) the Land Authority or its delegate.

If a Member Request

- 7.2 If an OCN member requests a Land Law be developed and introduced to Chief and Council they may do so by approaching any of the individuals listed in 7.1.

Initial Introduction of
Land Law to
Chief and Council

- 7.3 The initial request for a Land Law to be developed shall be submitted at a duly convened meeting of Chief and Council by one of the individuals listed in 7.1.

Review of Request

- 7.4 Chief and Council will then review the request and if they agree that a Land Law is required the issue regarding drafting the Land Law and consultation with the community will be delegated to the Land Authority and/or designate of Chief and Council.

Draft of Proposed
Land Law

- 7.5 Upon development of a Land Law, the proposed Land Law will be reviewed and recommended by the Land Authority and/or designate before an official notice is given to the community for Community Consultation.

Community
Consultation

- 7.6 Before a proposed Land Law is enacted by Chief and Council, the proposed Land Law will be presented to the community for Community Consultation in one or more of the following means:
- (a) posting of notice along with a brief description of content, in a public place in the administration offices of OCN and request for concerns in writing to be submitted to the Land Department;
 - (b) publishing a notice along with a brief description of content, in the weekly newspaper at least two successive editions and request any concerns in writing to be submitted to the Land Department;
 - (c) making an announcement, requesting concerns be submitted in writing to the Land Department, in other media in such way as it will reach a wider area;
or

- (d) holding a Community Meeting.

Submission of Land
Law to Chief and Council

- 7.7 Once Community Consultation has been completed and the proposed Land Law has been reviewed by the Land Authority or designate, the proposed Land Law will be recommended and forwarded to Chief and Council for their approval.

Process of
Land Law

- 7.8 Chief and Council, upon receiving recommendation to enact a proposed Land Law will ensure that the following processes occur before a Land Law is enacted:
- (a) the proposed Land Law will be introduced by the Land Authority or designate at a duly convened meeting of Chief and Council held at least 60 days before the Land Law is to be enacted; and
 - (b) within 60 days, Chief and Council will have three readings of the proposed Land Law; and
 - (c) the proposed Land Law will be posted at the administration office and Council chambers at least 50 days before proposed Land Law is to be enacted.

Enactment of
Land Law

- 7.9 A Land Law is enacted if it is approved by an Absolute Majority of Chief and Council at a duly convened meeting which is open to the Members of OCN.

Certificate of
Land Law

- 7.10 Two original copies of any Land Law enacted shall be signed by an Absolute Majority of Chief and Council at the duly convened meeting approving the Land Law.

Witness of Land Law

7.11 The Recording Secretary for Chief and Council meetings or such other person designated by Chief and Council, shall sign as a witness to Chief and Council signatures to the enactment of a Land Law .

Urgent matters

7.12 Chief and Council may enact a Land Law without the preliminary steps required under section 7.2 - 7.11 , if Chief and Council is of the opinion that the Land Law is needed urgently to protect OCN Land or Members in cases such as health, safety or other emergencies.

Expiry Interim Land Law

7.13 A Land Law enacted under Section 7.12 expires 90 days after its enactment unless it is re-enacted in accordance with Section 7.2 - 7.11.

Rejection of Land Law

7.14 A Land Law may from time to time be rejected by Chief and Council; including where:

- (a) they are not satisfied that a Land Law is adequate;
- (b) if members have a strong protest that a Land Law should not be enacted at a duly convened meeting of Chief and Council where the Land Law is being presented; or
- (c) such other reasons as Chief and Council deems sufficient.

Notice of rejection

7.15 A notice will be given by one of the means in Section 7.6 to the Members, if a Land Law is rejected by Chief and Council.

Re-introduction
of a Land Law

7.16 A Land Law which has been rejected by Chief and Council can only be re-introduced after the proposed Land Law is forwarded to a Dispute Resolution Panel under Part 8 of this *Land Code*, for review and comment.

Reason for
Rejection

7.17 If a proposed Land Law has been rejected by Chief and Council, a Land Resolution is required to be signed by Absolute Majority of Chief and Council giving the reason for rejection or if the time period allowed for the passing of the Land Law has expired.

Repealing of
Land Law

7.18 A Land Law may be repealed by Chief and Council upon:

- (a) giving a notice to the Members that the Land Law is no longer required; and
- (b) a Land Resolution being signed by an Absolute Majority of Chief and Council.

8. Publication of Laws

Publication

8.1 All Land Law motions shall be recorded in the minutes of Chief and Council.

Posting Laws

8.2 Chief and Council shall:

- (a) post the Land Law within 7 days after a Land Law has been enacted, in the administration offices of OCN;
- (b) within 14 days after a Land Law has been enacted, publish a summary of the Land Law, in the weekly newspaper.

Registry of Land
Laws

- 8.3 Chief and Council shall keep at its Council Chambers, a register of the original of all active Land Laws, Land Resolutions and Land Laws that have been rejected or repealed or are no longer in force.

Duplicate Registry
for Land Laws

- 8.4 A duplicate register for all OCN Land Laws, rejected Land Laws and repealed Land Laws will be maintained at the Land Department of OCN for administration purposes.

Land Law Copies

- 8.5 The following OCN Departments will be provided copies of Land Laws:
- (a) Land Department;
 - (b) administration office;
 - (c) enforcement department;
 - (d) finance and administration department; and
 - (e) any other department as required.

Access to Land Law

- 8.6 Any individual may obtain a copy of a Land Law or a Land Resolution during regular working hours and payment for such copy(s) of Land Law or Land Resolution will be at reasonable fee that is set by Chief and Council or body designated by Chief and Council.

9. Commencement of Laws

Law taking effect

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

PART 3 COMMUNITY APPROVALS

10. Rights of Eligible Voters

Eligible to Vote

- 10.1 Each Member who has attained the age of 18 years on or before the day of a vote is eligible to vote at a Community Meeting and at a Ratification Vote.

11. Community Input

Prior meeting of
members

- 11.1 The Chief and Council shall convene a Community Meeting to receive Members input prior to the introduction of the following Land Laws:
- (a) a Land Law respecting a community plan or subdivision plan;
 - (b) a Land Law affecting a heritage site;
 - (c) a Land Law respecting environmental assessment;
 - (d) a Land Law respecting an environmentally sensitive property;
 - (e) a Land Law respecting the transfer and assignment of Interests in land;
 - (f) a Land Law respecting the rate and criteria for the payment of fees of rent for land; and

- (g) any Land Law or class of Land Laws that Chief and Council, by Land Resolution, declares to be subject to this section.

Process to
Implement Laws

- 11.2 The Chief and Council along with the Land Authority shall, within a reasonable time after this *Land Code* takes effect, establish a community process to develop and implement the Land Laws.

12. Community Approval at a Community Meeting

Process to
Implement Laws

- 12.1 Community approval at a Community Meeting must be obtained for the following:
 - (a) any grant or disposition of an Interest or Licence in any OCN Land beyond 40 years;
 - (b) any renewal of a grant or disposition of an Interest or Licence in any OCN Land that extends the original term beyond 40 years;
 - (c) any charge or mortgage of leasehold Interest over 40 years;
 - (d) any Land Law on Spousal Interest in OCN Land that may be enacted;
 - (e) any OCN natural resource inventory and management plan that grants disposition of any natural resources on OCN Land that has not been identified in the land use plan;
 - (f) set out the general rules and procedures that apply to revenues from natural resources belonging to OCN Land; and
 - (g) any other Land Law or class of Land Laws that Chief and Council, by Land Resolution, declares to be subject to this section.

13. Procedure at a Community Meeting

Voting

- 13.1 Decisions at a Community Meeting are to be made by a majority of 50% + 1 of the Eligible Voters present at that meeting.

Notice of meeting

- 13.2 The Council shall give written notice of a Community Meeting that:
- (a) specifies the date, time and place of the meeting; and
 - (b) contains a brief description of the matters to be discussed and decided on at the meeting; and
 - (c) the minimum number of Eligible Voters required to affirm or deny a Land Law.

Manner of notice

- 13.3 The notice of a Community Meeting must be given to the Members by:
- (a) posting the notice in a public place at two or three locations on OCN Land, at least 30 days before the meeting;
 - (b) mailing the notice to OCN Members living off OCN Land who have registered their names to receive information;
 - (c) publishing the notice in the community newsletter at least 10 working days before the meeting;
 - (d) making an announcement in the media in such way as it will reach a wider area; and
 - (e) such additional methods as the Chief and Council may consider appropriate in the circumstances.

Members to Attend

13.4 All OCN Members have a right to attend a Community Meeting.

Other Individual attending

13.5 Other individuals may attend a Community Meeting with the permission of the Chief and Council or their designate.

Amount of Council to be in attendance

13.6 In order to hold a Community Meeting there must be at least an Absolute Majority of Chief and Council in attendance.

Minimum for quorum, community

13.7 The Chief and Council may by Land Law or Land Resolutions, establish a minimum number or percentage of eligible voters who are required to be present as a quorum for the purposes of making a decision at a Community Meeting.

Other meetings

13.8 The Chief and Council may schedule a second Community Meeting if:

- (a) not enough Eligible Voters attend the initial Community Meeting; or
- (b) the Community Meeting was postponed due to unforeseen circumstances; or
- (c) additional information is requested by a substantial number OCN Members attending the first meeting;

Second Meeting

- 13.9 Where a second meeting is scheduled, as a result of the attendance of less than a quorum of Eligible Voters at the first meeting, then the quorum provisions under Section 13.7 shall be suspended, and the Eligible Voters in attendance at the second meeting shall constitute a quorum for purposes of making a decision.

Other Land Laws

- 13.10 For greater certainty, the Chief and Council may make Land Laws or Land Resolution respecting Community Meeting.

14. Ratification Votes

Ratification

- 14.1 Community approval by a Ratification Vote must be obtained for the following:
- (a) a land use plan and community plan including natural resource;
 - (b) any proposed development on a heritage site referred to in Section 16;
 - (c) any expropriation of an Interest in OCN Land by OCN;
 - (d) any voluntary exchange of OCN Land;
 - (e) any amendment to the *Individual Transfer Agreement* that reduces the amount of funding provided by Canada;
 - (f) any amendment to this *Land Code* other than technical amendments under Section 46 .1 of this *Land Code*; and
 - (g) any Land Law or class of Land Laws that Chief and Council, by Land Resolution, declares to be subject to this section.

Opaskwayak Cree Nation Land Code

Individual Transfer Agreement with Canada

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

Ratification Process

- 14.3 Any Ratification Vote required under this *Land Code* shall be conducted in substantially the same manner as the *Opaskwayak Cree Nation Ratification Process*, which was used to ratify this *Land Code*.

No Verifier

- 14.4 A Verifier is not required in a Ratification Vote.

Percentage for Ratification Votes

- 14.5 The Chief and Council may make Land Laws respecting Ratification Votes and for greater certainty, may establish a minimum number or percentage of Eligible Voters needed to ratify any Land issue that would require a Ratification Vote.

Minimum Requirement for Approval

- 14.6 A matter shall be considered approved at a Ratification Vote, if a majority of the Eligible Registered Voters cast a vote in favour of the matter, subject only to the provisions of Sections 14.5.

**PART 4
PROTECTION OF LAND**

15. Expropriation

Rights and interest
that may be
expropriated

- 15.1 An Interest or Licence in OCN land, or in any building or other structure on those lands, may only be expropriated by OCN in accordance with the *Framework Agreement* and any Land Law enacted for the purpose of establishing the rights and procedures for community expropriations.

Community purposes

- 15.2 An expropriation may only be made for a necessary community purpose or works of OCN, including but not limited to; a fire hall, sewage or water treatment facility, community centre, public works, roads, schools, education facilities, recreation facility, daycare facility, hospitals, health-care facility, or retirement home.

Expropriation laws

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

Public report

- 15.4 Before OCN decides to expropriate an Interest or Licence, it shall make a public report on the reasons justifying the expropriation.

Rights that may not
be expropriated

- 15.5 An interest of Her Majesty the Queen in Right of Canada is not subject to expropriation by OCN.

Acquisition by mutual
agreement

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

Community approval

- 15.7 In the case of an expropriation of a Member's Interest, the expropriation must first receive community approval by Ratification Vote.

Compensation for
rights and interests

- 15.8 OCN shall, in accordance with its Land Laws and the *Framework Agreement*,
- (a) serve reasonable notice of the expropriation on each affected holder of the Interest or Licence to be expropriated; and
 - (b) pay fair and reasonable compensation to the holders of the Interest or Licence being expropriated.

Compensation
calculations

- 15.9 The total value of the compensation under this clause will be based on the following:

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

Market value

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

Neutral evaluation to resolve disputes

15.11 The resolution of disputes concerning the right of OCN to expropriate shall be determined in accordance with Part 8 of this *Land Code*.

Arbitration to resolve disputes

15.12 The resolution of the following disputes shall be determined by arbitration, in the same manner as provided in Part 8 of this *Land Code*.

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

16. Heritage Sites

Community approval of development

16.1 No development shall be allowed on any site designated as a heritage site under the land use plan, unless the development receives community approval by a Ratification Vote.

Land Use Plan

- 16.2 No amendment may be made to a land use plan to delete a heritage site unless the amendment receives community approval by a Ratification Vote.

17. Voluntary Land Exchanges and Protections

Exchanges with
other Parties

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

No effect

- 17.2 A land exchange is of no effect unless it receives community approval by a Ratification Vote held in accordance with Section 14.

Land to be received

- 17.3 No land exchange may occur unless the land to be received in the exchange meets the following conditions:
- (a) it must be equal to or greater than the size of OCN Land to be exchanged;
 - (b) it must be at least comparable to the appraised value of the OCN Land; and
 - (c) it must become OCN Land subject to this *Land Code* and set apart as a reserve for OCN by Canada.

Negotiator

- 17.4 The individual who will have authority to negotiate a land exchange agreement on behalf of OCN must be designated by Resolution.

Additional land

17.5 OCN may negotiate to receive other compensation, such as money or one or more other parcels of land, in addition to the parcel referred to above, which is intended to become a reserve. Such other parcels of land may be held by OCN in fee simple or some other manner.

Federal consent

17.6 Before OCN concludes a land exchange agreement, it must receive a written statement from Canada clearly stating that Her Majesty in Right of Canada:

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

Community Notice

17.7 Once negotiations on the land exchange agreement are concluded, the Chief and Council and/or their designate shall provide the following information to Eligible Voters at least 60 days before the vote:

- (a) a description of the OCN Land to be exchanged;
- (b) a description of the land to be received in the exchange;
- (c) a description of any other compensation to be provided;
- (d) a report of a qualified appraiser setting out that the conditions in Section 17.3 have been met;
- (e) a copy or summary of the exchange agreement;
- (f) a copy of the consent referred to in Section 17.6; and
- (g) and any other relevant documents.

Process of land
exchange

17.8 The land exchange agreement shall provide that:

- (a) the other party to the exchange must transfer to Canada the title to the land which is to be set apart as a reserve;
- (b) the Chief and Council must pass a Land Resolution authorizing Canada to transfer administration and control of the land being exchanged to OCN, in accordance with the exchange agreement; and
- (c) a copy of the instruments transferring administration and control to the relevant parcels of land must be registered in the OCN Land Register and the First Nation Lands Register in Ottawa.

**PART 5
ACCOUNTABILITY**

18. Conflict of Interest

Application of rules

18.1 The rules in this Part apply to the following individuals:

- (a) each member of Chief and Council;
- (b) each OCN employee whose responsibilities are land related;
- (c) each individual who is a member of the Land Authority or other body of OCN dealing with Land related matters.

Duty to report and
abstain

18.2 If an individual has any interest, financial or otherwise, in the matter being dealt with that might involve the individual or his Immediate Family, the individual:

- (a) shall disclose the Interest to the Chief and Council, or the Land Authority or other body as the case may be; and
- (b) shall not take part in any deliberations on that matter or vote on that matter.

Common interests

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

Inability to act

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

Meeting of Eligible Voters

- 18.5 If the Chief and Council is unable to vote on a proposed Land Law or Land Resolution due to a conflict of interest, the Chief and Council may refer the matter to a Community Meeting and, if a quorum of Eligible Voters is present at that Community Meeting, a majority of the Eligible Voters present at the Community Meeting may enact the Land Law or Land Resolution.

Specific Conflict Situations

- 18.6 No more than two members from the same Immediate Family may be members of a Land Authority or other body dealing with any matter that is related to OCN land.

Employees can not be members of Land Authority

- 18.7 Any individual that is employed by the Land Department shall not be a member of Land Authority.

Disputes

18.8 Questions about whether a breach of this section has occurred may be referred to the Dispute Resolution Panel under Part 8 of the *Land Code*.

Other laws

18.9 For greater certainty, the Chief and Council may enact a Land Law on enforcement process, to further implement this section.

19. Financial Management

Application

19.1 This section applies only to financial matters relating to OCN Land.

Establishment of
bank accounts

19.2 The Chief and Council, or their assigns, shall maintain one or more financial accounts in a chartered bank, trust company, or First Nation's financial authority, as the case may be, and shall deposit in those accounts:

- (a) federal transfer payments made under the *Framework Agreement* for the management and administration of OCN Land;
- (b) all capital and revenue monies received from the sale, grant or disposition of any rights and interests in OCN Land;
- (c) all fees, rents, fines, charges and levies imposed by Land Law or Land Resolution in relation to use, occupation or transfer of a right or interest in OCN Land; and
- (d) any other land revenue received by OCN.

Signing officers

- 19.3 The Chief and Council, or their assigns, shall designate signing authority from two different groupings as per OCN Financial Policy dated April 27, 1993 and amendments made to it thereafter.

Bonding

- 19.4 Every signing officer must be bondable.

Two signatures

- 19.5 To be valid, a cheque or other bill of exchange or transfer drawn on the account must be signed by two signing authorities.

Fiscal year

- 19.6 The fiscal year of OCN begins on April 1 of each year and ends on March 31 of the following year.

Preliminary Budget
Approval

- 19.7 No later than 45 days prior to the coming fiscal year, the Land Authority will draft land budget for approval to OCN's finance and administration committee or its successor.

Finance and
Administration
Committee to review

- 19.8 The OCN finance and administration committee, or its successor, shall review and recommend the land budget to Chief and Council for their approval, no later than 30 days prior to the coming fiscal year.

If no budget

- 19.9 If Chief and Council does not adopt a Land budget for a fiscal year prior to the beginning of that fiscal year, the land budget and any supplementary land budget of the previous fiscal year apply until a new Land budget is adopted.

Adoption of budget

- 19.10 Prior to the beginning of each fiscal year, Chief and Council shall by motion at a duly convened meeting, approve and adopt, a land budget for that fiscal year. If Chief and Council deems it necessary, it may, in the course of the fiscal year, adopt supplementary budgets for that fiscal year.

Procedure

- 19.11 After adopting the Land budget or supplementary Land budget, the Land Authority shall, upon request of its Members:
- (a) explain the budget or supplementary budget to the Members at any annual Community Meeting; and
 - (b) make available for review copies, of the budget or supplementary budget to be viewed at the administration office or Land Department of OCN by its Members at reasonable hours.

Budget rules

- 19.12 The Chief and Council may make rules respecting the preparation and implementation of the Land budget.

Expenditures

- 19.13 The Chief and Council may not expend monies related to land or commit itself, by contract or otherwise, to expend monies related to land, unless the expenditure is authorized by or under a Land Law or an approved Land budget.

Budgeting
Expenditures

19.14 All expenditures must be budgeted items and must be coded accordingly.

Financial
Commitments

19.15 All payment and financial commitments will be in accordance with the annual budget, specific requirements of a funding arrangement, or with a Resolution of Chief and Council.

Financial Policy

19.16 The OCN may, in accordance with this *Land Code*, adopt a financial policy to further manage monies related to OCN Land.

20. Financial Records

Financial records

20.1 Financial records related to OCN Land will be maintained and prepared in accordance with generally accepted accounting principles.

Preparation of
financial statement

20.2 Within 120 days after the end of each fiscal year, the Chief and Council on behalf of OCN shall prepare a financial statement in comparative form, containing at a minimum of:

- (a) a balance sheet;
- (b) a statement of revenues and expenditures and a comparison of these previous years; and
- (c) a statement of changes in fund balances.

Consolidated
accounts, etc.

20.3 The accounting, auditing and reporting requirements of this *Land Code* may be prepared and consolidated with, the other accounts, audits and reports of OCN for the initial fiscal year and each subsequent fiscal year.

21. Audit

Appointment of
auditor

21.1 For each fiscal year, an independent auditor recognized by the province of Manitoba with a designation of Chartered Accountant, Certified General Accountant, or Certified Management Accountant, shall be appointed to audit the land related financial records of OCN.

Holding office

21.2 The auditor appointed under this section holds office until reappointed, or replaced.

Vacancy in office

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

Remuneration

21.4 The auditor's remuneration shall be determined by finance and administration committee or successor.

Duty of auditor

21.5 The auditor shall, within 120 days after the end of OCN's fiscal year, prepare and submit to the Chief and Council, a report on OCN's financial statement, stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of OCN.

Access to records

21.6 In order to prepare the report on OCN's financial statement, the auditor may at any reasonable times inspect any financial records of OCN and any person or body who administers money on behalf of OCN, if necessary for completion with the audit.

Explanation of auditor's report

21.7 The Chief and Council along with the Chairperson of the Land Authority shall present the auditor's report to the Members at a Community Meeting with 45 days of receipt of the audit.

22. Annual Report

Annual report

22.1 The Chief and Council, on behalf of OCN, shall make available an annual report on OCN Land issues within 45 days of receipt of the community's audit.

Contents

22.2 The annual report will include:

- (a) annual review of land management;
- (b) a copy and explanation of the audit as it applies to OCN Land; and
- (c) any other matter considered worth including by the Chief and Council or Land Authority.

23. Access to Information

Access

23.1 Any Member may, during normal business hours at the main administrative office or the Land Department of OCN, have reasonable access to:

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

Copies of members

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

Access to records

23.3 An individual authorized by the Chief and Council or their designate, may, at any reasonable time, inspect the records relating to OCN Land.

PART 6 LAND ADMINISTRATION

24. Land Authority

Land Authority established

24.1 The Chief and Council shall enact a Land Law to establish a Land Authority which will be responsible for the following:

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

- (b) advise the Chief and Council and its staff on matters respecting OCN Land;
- (c) recommend Land Laws, Land Resolutions, policies and practices respecting OCN Land to the Chief and Council;
- (d) hold regular and/or special Community Meeting to discuss land issues and make recommendations to Chief and Council on the decisions relating to Land issues;
- (e) to assist in the flow of information on land issues between members and the Chief and Council;
- (f) oversee community approvals under this *Land Code*; and
- (g) any other duties delegated by Land Resolution or Land Law.

Development of
Land related rules
and procedures

24.2 Within a reasonable time after this *Land Code* takes effect, the Land Authority shall, in consultation with the Members, ensure that rules and procedures are developed to address the following matters:

- (a) environmental protection and assessment in relation to OCN Land;
- (b) any outstanding issues on the resolution of disputes in relation to OCN Land;
- (c) land use planning and zoning; and
- (d) Section 37 respecting Spousal Interest.

Implementation of
policies

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

Internal procedures

24.4 The Land Authority will make rules for the procedure for holding Land Authority meetings. These procedures will be consistent with those established by Chief and Council.

25. Membership of the Land Authority

Rules for Land Authority
Establishment and
Procedures

25.1 The Chief and Council shall enact a Land Law, to establish the procedure for the Land Authority election, including transitional rules for the first members of the Land Authority.

Composition

25.2 The Land Authority membership shall be determined by a Land Law which will establishes the Land Authority in accordance with the following:

- (a) must be an Eligible Voter; and
- (b) the majority of the Land Authority members must be residents on OCN Land.

Eligibility to be
nominated as a
Lands Authority
member

25.3 Any Eligible Voter, whether resident on or off OCN Land, is eligible for election to the Land Authority, except for the following:

- (a) any Member convicted of an offence that was prosecuted by way of indictment;
- (b) any Member currently in bankruptcy or under the supervision of a trustee in bankruptcy;

- (c) any Member unable to be bonded; and
- (d) any Member convicted of a corrupt practice in connection with an election, including accepting a bribe, dishonesty or wrongful conduct.

Selection of Lands
Authority Members

25.4 The members of the Land Authority are to be selected as follows:

- (a) two member of Council are to be appointed by the Chief and Council;
- (b) an elder is to be appointed by Chief and Council as an ex-officio member;
- (c) the other members will be determined by election.

Term of office

25.5 The length of the term of office for members of the Land Authority will be determined in a Land Law that establishes the Land Authority.

Interim Land
Authority

25.6 An interim Land Authority may be established, following the enactment of this *Land Code*, for a period of up to nine months, by appointment of Chief and Council, pending the establishment of a permanent Land Authority.

26. Chairperson of the Land Authority

Chairperson

26.1 The Chairperson of the Land Authority will be determined at the beginning of each new term of the Land Authority by vote of the members of the Land Authority. Chief and Council will be informed of the appointment of Chairperson.

Alternate
Chairperson

26.2 If the Chairperson is unable to perform the functions of office, either temporarily or on a long term basis, the Land Authority shall appoint one of the other Land Authority members to act as or be the Chairperson and Chief and Council will be informed of the appointment.

Functions of
Chairperson

26.3 The functions of the Chairperson are to:

- (a) exercise general control over the affairs of the Land Authority;
- (b) ensure the preparation of financial statements relating to all activities of the Land Authority, including the revenues and expenditures concerning OCN Land;
- (c) table the Land Authority's financial statements with the Chief and Council;
- (d) make recommendation to Chief and Council for their approval on any issues relating to Land activities that require approval from Chief and Council;
- (e) present the annual report to the OCN Members on the activities of the Land Authority; and
- (f) ensure the audited annual financial statements are made available in accordance with Section 21.

27. Revenue From Lands

Determination of
fees, and rent

27.1 The Land Authority shall ensure that Land Laws established in Section 6 for the following are maintained and implement:

- (a) the fees and rents for Interests and Licences in OCN Land; and
- (b) the fees for services provided in relation to any OCN Land.

28. Registration of Interests and Licences

Establishment and
maintenance of OCN
Land Register

28.1 Chief and Council by Land Law shall establish an OCN Land Register for the registration of documents relating to OCN Land. Therefore, the OCN Land Authority shall be responsible to maintain the OCN Land Register.

Enforcement of
interests and
licences

28.2 An Interest or Licence on OCN Land created or granted after *this Land Code* takes effect is not enforceable unless it is registered in the OCN Land Register.

Registration of
consent or
approval

28.3 No instrument that requires the consent of Chief and Council, community approval or Ratification Vote, may be registered unless the original or certified true copy of the document that evidences the consent or approval is attached.

Forms and
procedures

28.4 The OCN Land Authority may prescribe forms and procedures to create evidence of consents or approvals referred to in this section.

Access during
business hours

28.5 Unless certain documents are deemed confidential by Land Resolution, the Members shall have reasonable access to the OCN Land Register during normal business hours of the OCN administration, but no original documents shall be removed from the OCN Land Register, where necessary certified true copies of original documents may be provided by the OCN Land Register pursuant to Land Resolution or Land Laws regulating and governing the release of documents.

29. Duplicate Lands Register

Duty to maintain
duplicate register.

29.1 The Land Authority shall ensure that a duplicate copy of all registered documents that are registered in the OCN Land Register, are forwarded for deposit in the First Nation Lands Register in Ottawa.

Duty of member to
deposit

29.2 Every Person who wishes to have their Interest or Licence registered must submit application to the Land Authority for registration in both the OCN Land Register and the First Nation Land Register. The following must accompany the application for registering the document

- (a) all documents must be approved by either the Land Authority, Chief and Council or community, which ever method is required for that document approval process.
- (b) an original or certified true copy of document.

**PART 7
INTERESTS AND LICENCES IN LAND**

30. Limits on Interests and Licences

All disposition
in writing

30.1 An Interest or Licence to use OCN Land may only be created, granted, disposed of, assigned or transferred by a written document in accordance with this *Land Code* and any relevant Land Law.

Standards

30.2 The Land Authority may establish mandatory standards, criteria and forms for Interests and Licences in OCN Land and receive approval of those standards from Chief and Council.

Improper
transactions
void

30.3 A deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which any Person purports to grant, dispose of, transfer or assign an Interest or Licence in OCN Land after the date this *Land Code* takes effect is void if it contravenes this *Land Code*.

Non-members

30.4 A Person who is not a Member must have any Interest or Licence registered in the OCN Land Register and the First Nation Land Register.

31. Interim Land Laws

Continuation of
Land administration
through Interim Laws

31.1 In order for OCN Land administration to continue upon the *Land Code* coming into effect Chief and Council may enact interim Land Laws until such time as permanent Land Laws have been established. Because these Land Laws would be enacted before Community Consultation is completed, the Land Laws would expire nine months after the coming into force of this *Land Code*, unless enacted, replaced or amended.

Examples of
Interim Land
Laws

31.2 Land Laws which may be enacted on an interim basis shall include:

- (a) Land Laws regulating the creation, regulation and prohibition of Interest and Licenses in relation to OCN Land;
- (b) Land Laws governing the use and occupancy of OCN Land;
- (c) Land Laws respecting the rates and criteria for payment of fees of rent for OCN Land; and
- (d) any other Land Laws which Chief and Council may deem necessary.

May grant Interest
and Licence

31.3 Interests and Licenses in OCN Land may be granted on behalf of OCN in accordance with the interim Land Laws, subject to ratification under permanent Land Laws.

Written Conditions

- 31.4 The grant of an Interest, License or Permit under an interim Land Law may be made subject to the satisfaction of written conditions.

32. Interests and Licences

Continuation of existing interests

- 32.1 Any Interest or Licence in OCN Land that existed when this *Land Code* takes effect will, subject to this *Land Code*, continue in force in accordance with its terms and conditions.

Authority to make dispositions

- 32.2 New Interest and Licences in OCN Land may be granted on behalf of OCN in accordance with the Land Laws.

Conditional grant

- 32.3 The grant of an Interest, Licence or Permit may be made subject to the satisfaction of written terms and conditions.

33. Allocation of Land

Allocation of lots

- 33.1 The Chief and Council or delegate may allocate parcels of available land to OCN Members in accordance with the Land Law established by the Chief and Council subject to Section 31.1.

34. Transfer and Assignment of Interest

Land Law may
govern Transfer
or Assignment

34.1 The Chief and Council may enact a Land Law to govern the transfer, assignment, succession or testamentary disposition of Interests in OCN Land.

Chief and Council
approval for
Transfer or Assignment

34.2 Subject to the provisions of any Land Law, the approval of Chief and Council, shall be required for any transfer, assignment, succession or testamentary disposition of any Interest in OCN Land.

Testamentary
Interests
of Members

34.3 A Member, subject to the approval of Chief and Council, and subject to the provisions of any Land Law, may transfer their Interest in OCN Land by testamentary disposition, including a will or in accordance with their known wishes. In the event of a dispute as to the nature of a Members wishes in respect of their Interest in OCN Land, then the matter shall be referred to dispute resolution under this Land Code.

Testamentary
Interests
of non-members

34.4 A non-Member, subject to the approval of Chief and Council, and subject to the provisions of any Land Law, may transfer their Interest in OCN Land by testamentary disposition of a legal will.

35. Limits on Mortgages and Seizures

Protections

35.1 In accordance with the with the *Framework Agreement*, Section 29, Section 87 and Subsections 89 (1) and (2) of the *Indian Act* continue to apply to OCN Land.

Mortgages of leasehold interests with consent

35.2 In accordance with Land Law a leasehold Interest may be subject to charge or mortgage.

36. Residency and Access Rights

Right for residence

36.1 The following individuals have a right to reside on OCN Land as long as they are not in breach of any other orders that may restrict them either by a Peace Order; the Court, Justice of the Peace or Chief and Council:

- (a) Members, who have been allocated a residential lot by Chief and Council, and their spouses and children;
- (b) any invitee of a Member referred to in clause (a); and
- (c) lessees and permittees, in accordance with the provisions of the instrument granting the lease or permit.

Right of Access

36.2 The following individuals have a right of access to OCN Land:

- (a) a lessee and his invitees;

- (b) permittees and those granted a right of access under the permit;
- (c) OCN Members and their spouses and children;
- (d) a person who is authorized by a government body or any other public body, established by or under an enactment of OCN, Parliament or the province to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey; or
- (e) a person authorized in writing by the Chief and Council or delegate or by an OCN Land Law.

Public access

36.3 Any individual may have access to OCN Land for any social, recreational, or business purposes, if:

- (a) the individual does not trespass on occupied land and does not interfere with any interest in OCN Land;
- (b) the individual complies with all applicable Land Laws; and
- (c) no Resolution has been enacted barring that individual.

Trespass

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

Civil remedies

36.5 All civil remedies for trespass are preserved.

37. Spousal Interest Land Law

Development of rules and procedures

- 37.1 The Chief and Council shall enact a Spousal Interest Land Law providing rules and procedures applicable on the breakdown of a marriage, to
- (a) the use and occupancy of OCN Land; and
 - (b) the division of Interests in that land.

Enactment of rules and procedures

- 37.2 The rules and procedures contained in the Spousal Interest Land Law shall be developed by the Land Authority in consultation with the Members.

Enactment deadline

- 37.3 The Spousal Interest Land Law must be enacted within 12 months from the date this *Land Code* takes effect.

General principles

- 37.4 For greater certainty, the rules and procedures developed by the Land Authority under this section must respect the following general principles:
- (a) each spouse should have rights or Interest in their matrimonial home identified;
 - (b) each spouse should be entitled to an undivided half interest in their matrimonial home, as tenant in common;
 - (c) the rules and procedures shall not discriminate on the basis of sex; and

- (d) only Members are entitled to hold a permanent Interest in OCN Land or a charge against a permanent Interest in OCN Land.

Immediate rules

- 37.5 In order that Members benefit immediately from the legislative authority of the Chief and Council to address the issue of Spousal Interest under this *Land Code*, the Chief and Council may enact a Spousal Interest Land Law as soon as this *Land Code* comes into force. As this Land Law would be enacted before the work of the Land Authority and the community consultation is complete, the Land Law will expire at the end of the 12 month period after the coming into force of this *Land Code*, unless enacted, replaced or amended.

PART 8 DISPUTE RESOLUTION

38. Purpose

Intent

- 38.1 The intent of this Part is to ensure that all Persons entitled to possess, reside upon, use or otherwise occupy OCN Land do so harmoniously with due respect to the rights of others and of OCN and with access to OCN procedures to resolve disputes.

Informal Discussions

- 38.2 OCN intends that wherever possible, a dispute in relation to OCN 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 reach agreement to settle a dispute without recourse to this Part.

Staged Processes

- 38.3 OCN further intends that a dispute in relation to OCN 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) hearing by the Dispute Resolution Panel;
- (c) mediation; and
- (d) arbitration.

Who May File
A Dispute

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

- (a) a Member who claims an Interest in OCN Land based on a documented Interest;
- (b) a Person who has a dispute with another Person or with OCN in relation to the use or occupation of OCN Land;
- (c) OCN when asserting an Interest in OCN Land; and
- (d) OCN when disputing the use or occupation of OCN Land by a Person.

Dispute resolution
not available

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

- (a) administration or distribution of an estate;
- (b) decisions relating to housing allocations; and
- (c) decisions of Chief and Council to grant or refuse to grant an Interest or License in OCN Land.

Duty of Fairness

38.6 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

38.7 Chief and Council may prescribe such rules, policies, procedures, forms and reasonable fees not inconsistent with the *Land Code*, as may be necessary to give effect to this Part including but not limited to:

- (a) remuneration of facilitators, arbitrators, mediators, expert advisors, professionals or other Persons retained to assist in the resolution of disputes under this Part;
- (b) implementing recommendations of the Dispute Resolution Panel made under Section 43.5; and
- (c) any other matter necessary to give effect to this Part.

Civil Remedies
Preserved

38.8 Nothing in this Part shall be construed to prevent a party to a dispute from, at any stage of dispute resolution, applying to have the dispute resolved in a court of competent jurisdiction.

Challenge to
validity of law

38.9 Nothing in this Part shall be construed to prevent a party to a dispute from challenging the validity of a Land Law, but such challenge may be heard only in a court of competent jurisdiction.

39. Dispute Resolution Panel

Panel Established

39.1 Chief and Council will within 60 days of the coming into force of this *Land Code* establish a Dispute Resolution Panel.

Panel Members

39.2 The Dispute Resolution Panel will be composed of a maximum of 20 members, all of whom must be Eligible Voters, and who represent various elements of the community, including but not limited to elders, youth, professionals and Members who do not ordinarily reside on OCN Land.

Term of Office

39.3 For the first Dispute Resolution Panel established under this Part, Chief and Council will appoint 10 members for a term of 1 year and 10 members for a term of 2 years.

Expiry of Term

39.4 Chief and Council will appoint or re-appoint members of the Dispute Resolution Panel at least 30 days prior to the expiry of the term of the member of the Dispute Resolution Panel whose term is the subject to the appointment or re-appointment.

Re-appointment vacancy

39.5 Appointments and re-appointments made under Section 39.4 will be for a term of 2 years provided that if an appointment is made to replace a panel member who is unable or unwilling to complete a term, the appointment will be made for the remainder to the term of the panel member being replaced.

Advisors, Mediators and Arbitrators

39.6 The Land Authority may appoint or contract with expert advisors, mediators, arbitrators, professionals or other Persons to assist in resolving disputes under this Part.

40. Procedure to File a Dispute

Procedure to File Dispute

40.1 A Person who wishes to resolve a dispute with another Person or OCN in relation to the use or occupation of OCN Land may file a written Notice of Dispute with the Lands Department 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

40.2 A Notice of Dispute must be filed within 30 days of the Person filing the Notice of Dispute becoming aware of the decision, act or omission being disputed.

41. Facilitated Discussions

First stage Procedure

41.1 Within 30 days of receiving a Notice of Dispute under section 40.1 the Land Department will prepare and deliver a report on the dispute and a copy of the Notice of Dispute to the Chair of the Dispute Resolution Panel.

Notice of Dispute

41.2 As soon as practicable after receiving a report and Notice of Dispute under section 41.1 the Chair of the Dispute Resolution Panel, another person not affected by the dispute and designated by the OCN Land Authority for that purpose, will make best efforts to meet with the parties and attempt to resolve the dispute through facilitated discussions.

Timing

- 41.3 In setting the date and time of the meeting referred to in Section 41.2 the Chair of the Dispute Resolution Panel or other person appointed for the purposes of Section 43.2 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 it;
or
 - (c) obtain professional advice in relation to the dispute.

Other Mechanisms

- 41.4 Where the Chair of the Dispute Resolution Panel or other person appointed for the purposes of Section 41.2 concludes that the dispute cannot be resolved through facilitated discussions, he may in his sole discretion direct that the dispute proceed to mediation or hearing by the Dispute Resolution Panel.

42. Mediation

Appointment

- 42.1 A mediator will be selected jointly by the parties to the dispute and the Dispute Resolution Panel.

Unable to Agree

- 42.2 If the parties to the dispute and the Dispute Resolution Panel are unable to agree on a mediator, the Dispute Resolution Panel will hear the dispute.

Authorities

- 42.3 The mediator has no authority to decide the dispute without the agreement of the parties to the dispute.

Report

42.4 At the conclusion of mediation, the mediator shall submit a written report on the mediation proceedings to the parties to the dispute and the Dispute Resolution Panel.

43. Hearing by Dispute Resolution Panel

Hearing of Disputes

43.1 If a dispute is not resolved by mediation, the Dispute Resolution Panel will hear the dispute at a place and time to be determined by the Dispute Resolution Panel.

Hearing Procedures

43.2 Unless otherwise provided in this Part, the Dispute Resolution Panel will establish procedures for hearing disputes by the Dispute Resolution Panel.

Hearing by
Members

43.3 A dispute will be heard by three members of the Dispute Resolution Panel who have no interest or conflict of interest in the dispute.

Decision-making
authority

43.4 The Dispute Resolution Panel may, after hearing a dispute:

- (a) confirm in whole or in part the decision which is the subject of the dispute;
- (b) reverse in whole or in part the decision which 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 OCN Land, the registration of an Interest in OCN 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 binding arbitration under Section 44.1.

Recommendations
By Panel

43.5 In addition to making a determination under Section 43.4, the Dispute Resolution Panel may:

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

Interim decisions

43.6 The Dispute Resolution Panel may, in relation to a dispute over which it has jurisdiction under this Part, make any interim order it considers to be necessary as a matter of urgency to preserve the rights of the parties to the dispute or to preserve or protect an interest in OCN Land.

Decisions in
writing

43.7 Decisions of the Dispute Resolution Panel will be in writing.

Decisions Final
And Binding

43.8 Subject to Section 38.8, a decision of the Dispute Resolution Panel is final and binding.

Improper influence

43.9 Any attempt by a person who has filed a Notice of Dispute with the Dispute Resolution Panel to improperly influence a decision of the Dispute Resolution 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.

44. Arbitration Panel

Referral to
Arbitration Panel

44.1 The Dispute Resolution Panel may refer a matter to an Arbitration Panel where:

- (a) the Dispute Resolution Panel is unable to decide the dispute; or
- (b) the parties to the dispute request non-Member involvement in resolving the dispute.

Conditions

44.2 The Dispute Resolution Panel may not refer a matter to an Arbitration Panel unless all parties to the dispute agree:

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

Arbitration Panel

44.3 An Arbitration Panel shall consist of three panel members selected as follows:

- (a) one panel member selected by each party to the dispute, or where there are more than two parties to a dispute, by the two principal parties to the dispute;
- (b) one panel member agreed to by all parties to the dispute who will sit as the Chair of the Arbitration Panel

Other Evidence

44.4 An Arbitration Panel may hear and consider evidence from an expert advisor, professional or other Person.

Decision-making authority

44.5 The Arbitration Panel may, after hearing a dispute:

- (a) make any decision that the Dispute Resolution Panel may make under Section 43.4; and
- (b) make any recommendation that the Dispute Resolution Panel may make under Section 43.5.

Reasons for decisions

44.6 The Arbitration Panel will give written reasons for their decision within 30 days after the date of the decision.

Binding Decisions

44.7 Subject to Section 38.8, a decision of the Arbitration Panel is final and binding.

45. OCN Disputes

OCN Land Authority

45.1 Where OCN disputes the possession, use or occupation of OCN Land, the OCN Land Authority will conduct the dispute resolution proceedings under this Part.

OCN Land Authority to report

45.2 Upon conclusion of proceedings under this Part, the Land Authority will report upon the proceedings and decisions to Members at a Community Meeting in a timely fashion.

Civil
Proceedings only

45.3 For greater certainty, the Land Authority's indemnification under Section 47.1 relates to civil proceedings only, and not to the prosecution of an offence under a Land Law or under criminal law.

No time
limit

45.4 Section 40.2 does not apply to OCN.

PART 9 TRADITIONAL UNREGISTERED OR UNDOCUMENTED INTERESTS

46. Traditional Interest Claim

Filing claim

46.1 Member who claims an interest in OCN Land based on historical occupancy, or an unregistered or undocumented interest in OCN Land, may file a written claim with the OCN Land Authority setting out the basis for the claim, including but not limited to:

- (a) the facts upon which the claim is based;
- (b) the evidence available in support of the claim; and
- (c) the relief that is sought.

Assistance
to Member

46.2 The Lands Department may assist a Member in preparing and filing a written claim under Section 46.

No time limit

46.3 A Member may file a claim under Section 46 at any time.

Preparation
of report

46.4 Within 60 days of receipt of a claim under Section 46, the OCN Land Authority will cause to be prepared a report on the claim.

Additional
information

46.5 In addition to any other information, a report prepared under Section 46.4 will identify:

- (a) any other individuals who may supply relevant information pertaining to the claim; and
- (b) any other individuals who may be affected by the claim.

Elders Hearing

46.6 If, after reviewing a report prepared under Section 46.4, the OCN Land Authority concludes that the claim has merit, it will request that Chief and Council convene a panel of three elders to hear and consider:

- (a) the claim;
- (b) the report on the claims;
- (c) any evidence with respect to the claim; and
- (d) the relief being sought.

Giving Merit

46.7 Following a hearing under Section 46.6, the panel of elders will decide by majority vote whether the claim has merit.

Unanimous decision
of Panel

46.8 A unanimous decision of the panel of elders is required for a determination that a claim has no merit.

Giving effect
to decision

46.9 Where the panel of elders determine that a claim is valid, Chief and Council will, in accordance with this *Land Code*, take such steps as are necessary to give effect to that determination provided that, where it is inequitable or unjust in all the circumstances to perfect the claim, Chief and Council may substitute another interest in OCN Land of equivalent area or value.

Dispute Resolution

46.10 A Member who disputes a decision of the panel of elders or an action of Chief and Council or a Person affected by such decision or action may proceed to dispute resolution in accordance with Part 8 of this *Land Code*.

PART 10 OTHER MATTERS

47. Liability

Liability
Coverage

47.1 The Chief and Council shall arrange, maintain and pay, out of the transfer payments received from Canada, insurance coverage for OCN, the Land Authority and its officers and employees engaged in carrying out any matter related to OCN Land to indemnify them against personal liability arising from the performance of those duties.

Extent of
Coverage

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

Bondable

47.3 Every employee of OCN whose responsibilities include land administration or collection or accounting for land revenue must be bondable.

48. Offences

Application of the
Criminal Code

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

49. Amendments to Land Code

Technical
amendments

49.1 Technical amendments to this Land Code may be made without a ratification vote, provided the OCN members are advised of those technical amendments and the technical amendments are available for inspection at the administration offices of OCN.

Community
Approval

49.2 All amendments to this *Land Code* other than technical amendments must receive community approval by Ratification Vote to be effective.

50. Commencement

Preconditions

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

- (a) the community approves this *Land Code* and *Individual Transfer Agreement* with Canada and this *Land Code* has been certified by the verifier pursuant to the *Framework Agreement*; and
- (b) the Chief and Council has enacted a Land Resolution confirming that adequate funding for land management has been identified and assured by Canada under the *Individual Transfer Agreement*.

Commencement Date

50.2 Subject to Section 50.1, this *Land Code* shall take effect on the first day of the month following the certification of this *Land Code* by the verifier.