

**BEECHER BAY FIRST NATION  
LAND CODE**

**Dated for Reference May 25, 2003**

Amended August 1, 2013

## TABLE OF CONTENTS

<b>TABLE OF CONTENTS .....</b>	<b>2</b>
<b>PREAMBLE.....</b>	<b>4</b>
<b>PART 1.....</b>	<b>5</b>
<b>PRELIMINARY MATTERS.....</b>	<b>5</b>
1. <b>Title .....</b>	<b>5</b>
2. <b>Interpretation .....</b>	<b>5</b>
3. <b>Authority to Govern .....</b>	<b>8</b>
4. <b>Purpose .....</b>	<b>8</b>
5. <b>Description of First Nation Land .....</b>	<b>8</b>
<b>PART 2.....</b>	<b>12</b>
<b>FIRST NATION LEGISLATION.....</b>	<b>12</b>
6. <b>Law-Making Powers.....</b>	<b>12</b>
7. <b>Law-Making Procedure .....</b>	<b>13</b>
8. <b>Publication of Laws .....</b>	<b>14</b>
<b>PART 3.....</b>	<b>15</b>
<b>LAND ADMINISTRATION.....</b>	<b>15</b>
9. <b>Financial Management .....</b>	<b>15</b>
10. <b>Financial Records .....</b>	<b>17</b>
11. <b>Audit.....</b>	<b>18</b>
12. <b>Annual Report.....</b>	<b>19</b>
13. <b>Access to Financial Information .....</b>	<b>19</b>
14. <b>Advisory Committees .....</b>	<b>19</b>
15. <b>Land Management Advisory Committee Membership.....</b>	<b>21</b>
16. <b>Chair of the Land Management Advisory Committee.....</b>	<b>22</b>
17. <b>Registration of Interests and Licenses .....</b>	<b>23</b>
18. <b>First Nation Lands Register.....</b>	<b>24</b>
<b>PART 4.....</b>	<b>24</b>
<b>COMMUNITY CONSULTATION.....</b>	<b>24</b>
19. <b>Rights of Eligible Voters.....</b>	<b>24</b>
20. <b>Approval by Land Management Advisory Committee .....</b>	<b>24</b>
21. <b>Community Consultation .....</b>	<b>25</b>
22. <b>Meeting of Members .....</b>	<b>26</b>
23. <b>Ratification Votes.....</b>	<b>26</b>
<b>PART 5.....</b>	<b>27</b>
<b>PROTECTION OF LAND.....</b>	<b>27</b>
24. <b>Expropriation by the First Nation.....</b>	<b>27</b>
25. <b>Heritage Land .....</b>	<b>30</b>

<b>26. Voluntary Land Exchange and Protection</b> .....	30
<b>PART 6</b> .....	32
<b>CONFLICT OF INTEREST</b> .....	32
<b>27. Conflict of Interest</b> .....	32
<b>PART 7</b> .....	33
<b>INTERESTS AND LICENSES IN LAND</b> .....	33
<b>28. Limits on Interests and Licenses</b> .....	33
<b>29. Existing Interests</b> .....	34
<b>30. New Interests and Licenses</b> .....	34
<b>31. Certificates of Possession</b> .....	35
<b>32. Allocation of Land</b> .....	35
<b>33. Transfer and Assignment of Interests</b> .....	35
<b>34. Limits on Mortgages and Seizures</b> .....	35
<b>35. Residency and Access Rights</b> .....	36
<b>36. Transfers on Death or Mental Incompetence</b> .....	37
<b>37. Spousal Property Law</b> .....	39
<b>PART 8</b> .....	40
<b>DISPUTE RESOLUTION</b> .....	40
<b>38. Dispute Resolution Panel</b> .....	40
<b>39. Dispute Resolution Procedure</b> .....	41
<b>40. Impartiality</b> .....	42
<b>41. Powers of Panel</b> .....	42
<b>PART 9</b> .....	43
<b>OTHER MATTERS</b> .....	43
<b>42. Liability</b> .....	43
<b>43. Enforcement</b> .....	44
<b>44. Amendments to Land Code</b> .....	44
<b>45. Commencement</b> .....	44

## PREAMBLE

**WHEREAS** the SĆIANEW peoples of the Beecher Bay First Nation are represented by the Council of the Beecher Bay First Nation;

**AND WHEREAS** the SĆIANEW peoples of the Beecher Bay First Nation have a profound relationship with the land;

**AND WHEREAS** the Beecher Bay First Nation is a party to a Douglas Treaty;

**AND WHEREAS** the traditional teachings of the Beecher Bay First Nation speak of the special obligation of the SĆIANEW peoples to care for and respect the land and the wonders of nature created on the land;

**AND WHEREAS** the Beecher Bay First Nation wishes to manage its lands and resources, thereby enabling the First Nation to become economically self sufficient, with the means to live in dignity and assume responsibility for its economic, political, cultural and social development within the context of the Canadian society, rather than having its lands and resources managed on its behalf by Canada under the *Indian Act*;

**AND WHEREAS** the Beecher Bay First Nation wishes to manage 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 BEECHER BAY FIRST NATION.**

## PART 1 PRELIMINARY MATTERS

### 1. Title

1.1 The title of this enactment is the *Beecher Bay 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;

“Band Land” means First Nation Land in which all Members have a common interest;

\*“Band Owned Entity” means a corporation, partnership, joint venture, trust or body corporate, the majority ownership of which is held by the First Nation or by a corporation, trust or partnership wholly owned by the First Nation;

“Beecher Bay Lands Register” means the register maintained by the First Nation under clause 17.1 of this Land Code;

“Common-law Marriage” means a man and woman not married to each other that have lived together as husband and wife for a period of not less than five years;

“Council” means the Chief and Council of the First Nation and any successor government of the First Nation;

\*“Economic Development Zone” means the land/s identified in Schedule A to this Land Code and designated for economic development activities including;

- (a) Economic initiatives that will enhance the quality of life and prosperity for the First Nation and its Members;
- (b) Development of diverse, sustainable and profitable businesses for the First Nation and its Members that respect the history, culture and the traditions of the First Nation, and the environment; and
- (c) Economic activities that will assist in building the capacity of Members.

“Elders Advisory Council” means the group of elders established under clause 14.1 of this Land Code;

“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;

“First Nation” means the Beecher Bay First Nation as named in the Act;

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

“First Nation Lands Register” means the register maintained by the Department of Indian Affairs and Northern Development under clause 51.1 of the Framework Agreement;

“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 parent, sister, brother, grandchild, child or Spouse;

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

“Instrument” means a formal legal document;

“Land Code” means this *Beecher Bay First Nation Land Code*;

“Land Management Advisory Committee” means the Beecher Bay Land Management Advisory Committee established under clause 14.4;

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

“Law” means a Law enacted under this Land Code but does not include a Resolution;

“Meeting of Members” means a meeting under clause 22;

“Member” means an individual whose name appears or is entitled to appear on the Beecher Bay First Nation membership list;

“Panel” means the Dispute Resolution Panel established under clause 38.1;

“Ratification Vote” means a vote under clause 23;

“Resolution” means a resolution of Council enacted under this Land Code;

“Spouse” means an individual who is married to another, whether by custom, religious or civil ceremony, and includes a Spouse by Common-law Marriage; and

“Verifier” means the 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 First Nation, unless otherwise provided.

**Language**

- 2.6 The language of the First Nation 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**

- 2.7 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 to its Members.
- 2.8 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.

**Fair Interpretation**

- 2.9 This Land Code will be interpreted in a fair, large and liberal manner.

**Fiduciary Relationships**

- 2.10 This Land Code is not intended to abrogate the fiduciary relationships between Her Majesty the Queen in Right of Canada, the First Nation and its Members.

**Lands and Interests Included**

2.11 A reference to “land” or “Land” in this Land Code is, unless the context otherwise requires, a reference to First Nation Land and all rights and resources in and of such land, including, but not limited to:

- (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 those resources are under the jurisdiction of Canada or the First Nation; and
- (b) all the interests and licenses granted to the First Nation by Her Majesty in right of Canada as listed in the Individual Agreement.

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

#### Source of Authority

3.1 The authority of the First Nation to govern its lands and resources flows from:

- (a) the Creator to the people of the First Nation;
- (b) from the people of the First Nation to the Council according to the culture, traditions, customs and laws of the First Nation; and
- (c) from the First Nation’s 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 administrative structures that apply to First Nation Land and by which the 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 that land described on an interim basis according to the Act by the Department of Indian Affairs and Northern Development for the purposes of the First Nation’s Ratification Vote as follows:



- (a) Becher Bay Indian Reserve No. 1: Those lands within the Province of British Columbia, Canada, as described in the following documents which either set aside lands as reserve for the benefit of the Beecher Bay First Nation, or alternatively remove these lands from reserve status:
- (i) The lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry (ILR) as number 8042.
  - (ii) The lands described in the Order in Council of the Privy Council (OCPC) No. 1975-380, dated February 25, 1976 and recorded in the ILR as number 39157.
- (b) Becher Bay Indian Reserve No. 2: Those lands within the Province of British Columbia, Canada, as described in the following documents which either set aside lands as reserve for the benefit of the Beecher Bay First Nation, or alternatively remove these lands from reserve status:
- (i) The lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry (ILR) as number 8042.
  - (ii) The lands described in the Order in Council of the Privy Council (OCPC) No. 2441, dated April 25, 1952 and recorded in the ILR as 13325.
  - (iii) The lands described in OCPC No. 1966-2445, dated December 29, 1960 and recorded in the ILR as number 13326.
- (c) Lamb Island Indian Reserve No. 5: Those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Beecher Bay First Nation:
- (i) The lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry (ILR) as number 8042.
- (d) Fraser Island Indian Reserve No. 6: Those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Beecher Bay First Nation:
- (i) The lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry (ILR) as number 8042.
- (e) Village Island Indian Reserve No. 7: Those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Beecher Bay First Nation:

- (i) The lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry (ILR) as number 8042.
- (f) Whale Island Indian Reserve No. 8: Those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Beecher Bay First Nation:
  - (i) The lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry (ILR) as number 8042.
- (g) Long Neck Island Indian Reserve No. 9: Those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Beecher Bay First Nation:
  - (i) The lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry (ILR) as number 8042.
- (h) Twin Island Indian Reserve No. 10: Those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Beecher Bay First Nation:
  - (i) The lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry (ILR) as number 8042.

#### Excluded Lands

- 5.2 Notwithstanding clause 5.1, this Land Code does not apply to any land determined by the Phase II Environmental Site Assessment conducted or being conducted by Canada and the First Nation at the time this Land Code comes into effect, to have an environmental hazard or to be otherwise environmentally unsafe for First Nation use, until such land has been the subject of an environmental audit and is declared to be free of environmental hazard and safe for First Nation use.

#### Additional Lands

- 5.3 The following additional lands may be made subject to this Land Code if they are, or become, reserve lands and the following conditions are met:
- (a) lands owned jointly by the First Nation and another First Nation, if both First Nations agree upon a joint management scheme for those lands; and
  - (b) any land or interest acquired by the First Nation after this Land Code 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.
- 5.4 Clause 5.3 does not apply to land acquired by voluntary land exchange in accordance with clause 26.

- 5.5 If the relevant conditions of clause 5.2 or 5.3 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.

**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) development, conservation, protection, management, use and possession of First Nation Land;
- (b) interests and licenses 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, Council may make Laws in relation to First Nation Land including, but not limited to:

- (a) zoning and land use planning;
- (b) regulation, control, authorization and prohibition of the occupation and development of land;
- (c) creation, regulation and prohibition of interests and licenses;
- (d) environmental assessment and protection;
- (e) provision of local services and the imposition of user charges;
- (f) provision of services for the resolution, outside the courts, of disputes;
- (g) authorization and regulation of subdivisions and the conduct of surveys;
- (h) setting aside and regulation of parks, parklands, and recreational lands;
- (i) setting aside and regulation of heritage land;
- (j) rules and procedures for the receipt, management, expenditure, investment, and borrowing of moneys, and the establishment of administrative structures to manage such moneys;

- (k) creation of management and administrative bodies or agencies;
- (l) removal and punishment of persons trespassing upon First Nation Land or frequenting First Nation Land for prohibited purposes;
- (m) public nuisance and private nuisance;
- (n) regulation of sanitary conditions and the provision of sanitary services in private premises and public places;
- (o) construction and maintenance of boundary and internal fences;
- (p) construction, maintenance and management of roads, water courses, water diversions, storm drains, bridges, ditches and other local and public works; and
- (q) regulation of traffic and transportation.

#### 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 clause 6.3 Council may by enacting a Law, delegate administrative authority in relation to a Law enacted under clause 6.1 to an individual or a body established or authorized under this Land Code.

## 7. Law-Making Procedure

#### Introduction of Laws

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

#### Tabling and Posting of Proposed Laws

- 7.2 A proposed Law will be:

- (a) tabled at a meeting of Council at least 21 days before the proposed Law is voted upon;
- (b) deposited with the Chair of the Land Management Advisory Committee at least 21 days before the proposed Law is voted upon; and
- (c) posted in the First Nation administration offices and other public places on First Nation Land at least 7 days before the proposed Law is voted upon.

#### Urgent Matters

- 7.3 Council may enact a Law without the preliminary steps required under clause 7.2 if Council is reasonably of the opinion that the Law is required urgently to protect First Nation Land or Members.
- 7.4 A Law enacted under clause 7.3 will be deemed to have been repealed and to have no force and effect 28 days after its enactment, but may be re-enacted in accordance with clause 7.2.

#### Approval of Law by Council

- 7.5 A Law is enacted if it is approved by Council.

#### Certification of Laws

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

#### Law Coming Into Force

- 7.7 A Law comes into force on:
- (a) the date it is enacted; or
  - (b) such other date as may be set by the Law.

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

#### Publication

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

#### Posting Laws

- 8.2 Within ten 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 and are 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.
- 8.6 Clause 8.5 does not preclude Council or a body designated by Council from making a copy of a Law or Resolution available to Members without fee.

**PART 3  
LAND ADMINISTRATION**

**9. Financial Management**

**Application**

- 9.1 This part applies only to financial matters in relation to First Nation Land administered under this Land Code.

**Establishment of Bank Accounts**

- 9.2 Council will maintain one or more 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 licenses 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 licenses in First Nation land; and
  - (e) any other land revenue received by the First Nation from First Nation Land.

- 9.3 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 within the meaning of clause 5.2(d) of the Framework Agreement.

Financial Policy

- 9.4 The First Nation may, in accordance with this Land Code, adopt a financial policy to further manage moneys related to First Nation Land.

Signing Officers

- 9.5 Council will authorize at least three persons, at least one of whom will be a member of Council and one of whom will be the Lands Manager, to sign cheques and other bills of exchange or transfer drawn on a financial account maintained under clause 9.2.
- 9.6 A cheque or other bill of exchange or transfer drawn on a financial account maintained under clause 9.2 must be signed by two persons authorized under clause 9.5.
- 9.7 A payee will not be a signor under clause 9.6.
- 9.8 Every signing officer will complete such security screening process as may be prescribed by Council.

Fiscal Year

- 9.9 The fiscal year of the First Nation will begin on April 1 of each year and end on March 31 of the following year.

Adoption of Budget

- 9.10 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.
- 9.11 Prior to adopting a budget referred to in clause 9.10, Council will consult with the Land Management Advisory Committee.

Procedure

- 9.12 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) make a copy of the budget or supplementary budget available at the First Nation administration offices for inspection by Members during regular business hours.

If No Budget

- 9.13 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

- 9.14 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 adopted budget.

Determination of Revenues

- 9.15 Council will establish a process for determining:
- (a) fees and rent for interests and licenses in First Nation Land; and
  - (b) fees for services provided in relation to First Nation Land and compliance with this Land Code.

**10. Financial Records**

Financial Records

- 10.1 The First Nation will keep financial records in accordance with generally accepted accounting principles.

Offences

- 10.2 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,
- is guilty of an offence under this Land Code.

Preparation of Financial Statement

- 10.3 Within 90 days after the end of each fiscal year Council will prepare a financial statement in comparative form containing:
- (a) a balance sheet;

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

#### Consolidated Accounts

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

### **11. Audit**

#### Appointment of Auditor

- 11.1 For each fiscal year, Council will appoint a duly accredited auditor to audit the financial records under this Part.
- 11.2 An auditor appointed for other First Nation audits may be appointed under clause 11.1.

#### Vacancy in Office

- 11.3 If a vacancy occurs during the term of an auditor, Council will forthwith appoint a new auditor for the remainder of the former auditor's term.

#### Remuneration

- 11.4 An appointment under clause 11.1 will contain a statement approving the remuneration to be paid to the auditor.

#### Duty of Auditor

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

#### Access to Records

- 11.6 The auditor may at all reasonable times inspect any financial records of the First Nation and the financial records of any person or body who is authorized to administer money related to First Nation Land.

## Presentation of Auditor's Report

11.7 Council will present the auditor's report at a Meeting of Members.

**12. Annual Report**

## Publish Annual Report

12.1 Council will prepare and table with the Land Management Advisory Committee an annual report on First Nation Land management.

12.2 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 Lands; and
- (c) such other matters as may be directed by Council or reasonably requested by the Land Management Advisory Committee.

**13. Access to Financial Information**

## Copies for Members

13.1 Any person may, during normal business hours at the First Nation administrative offices, have reasonable access to:

- (a) the auditor's report; and
- (b) the annual report.

13.2 A Member may, during normal business hours at the First Nation administration offices, upon payment of a reasonable fee set by Resolution, obtain a copy of the auditor's report or annual report on First Nation Land management.

**14. Advisory Committees**

## Elders Advisory Council

14.1 An Elders Advisory Council is hereby established to:

- (a) consider developments on designated heritage land and sacred lands under clause 25.1; and
- (b) provide advice and guidance to Council, the Land Management Advisory Committee and the Members generally in land management matters.

14.2 The Elders Advisory Council will include Members who are 45 years of age or more and are acknowledged by the Members as elders of the First Nation.

14.3 Members of the Elders Advisory Council may not concurrently be members of the Land Management Advisory Committee.

**Land Management Advisory Committee Established**

14.4 A Land Management Advisory Committee is hereby established to:

- (a) assist with the development of a 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 under this Land Code; and
- (g) perform such other duties and functions as Council may direct.

**Development of Land Related Rules and Procedures**

14.5 Within a reasonable time after this Land Code takes effect, Council will, in consultation with the Members and the Land Management Advisory Committee, establish rules and procedures to address the following matters:

- (a) environmental protection and assessment;
- (b) resolution of disputes in relation to First Nation Land;
- (c) land use planning and zoning; and
- (d) clause 37 respecting spousal property and the policy upon which that clause is based.

**Implementation of Policies**

- 14.6 Rules and procedures developed in accordance with clause 14.5 will be given full and fair consideration by Council for implementation as Laws, policies or amendments to this Land Code.

**Internal Procedures**

- 14.7 The Land Management Advisory Committee may establish rules and procedures for the conduct of its meetings and general affairs, provided that any such rules and procedures are not inconsistent with any rules and procedures established by Council.
- 14.8 Subject to Council requirements in respect of financial obligations, the Land Management Advisory Committee may:
- (a) establish policies for the remuneration and recovery of expenses incurred by Land Management Advisory Committee members; and
  - (b) establish programs for the orientation and education of Land Management Advisory Committee members.
- 14.9 The Land Management Advisory Committee will take reasonable measures to consult with the Elders Advisory Council in the conduct of its meetings and general affairs.

**15. Land Management Advisory Committee Membership****Composition**

- 15.1 The Land Management Advisory Committee will be comprised of a minimum of seven Eligible Voters.

**Eligibility**

- 15.2 Any Eligible Voter, whether or not resident on First Nation Land, is eligible to be appointed to the Land Management Advisory Committee, except for:
- (a) an Eligible Voter convicted of an offence that was prosecuted by way of indictment; and
  - (b) an Eligible Voter convicted of a corrupt practice in connection with an election, including accepting a bribe, dishonesty or wrongful conduct.

**Selection of Land Management  
Committee Members**

- 15.3 The members of the Land Management Advisory Committee are to be selected as follows:

- (a) a member of Council appointed by Council; and
  - (b) six members appointed jointly by Council and the Lands Manager.
- 15.4 Council will enact a Law to establish the procedure for selection of Land Management Advisory Committee members, including such transitional rules as may be necessary for the members of the first Land Management Advisory Committee.
- 15.5 A Law enacted under clause 15.4 will include:
- (a) a process for providing notice to Members that appointments will be made to the Lands Management Advisory Committee and offering Members an opportunity to apply for such appointment; and
  - (b) standards and criteria for appointment to the Lands Management Advisory Committee.

#### Term of Office and Vacancy

- 15.6 A member of the Lands Management Advisory Committee will serve in office until that member:
- (a) resigns in writing;
  - (b) becomes ineligible to hold office under clause 15.2;
  - (c) ceases to be a Member;
  - (d) is absent from three consecutive meetings of the Lands Management Advisory Committee for a reason other than illness or incapacity without being authorized to be absent by the Lands Management Advisory Committee; or
  - (e) dies or becomes mentally incompetent.

#### Filling of Vacancy

- 15.7 Where the office of a member of the Land Management Advisory Committee becomes vacant, the vacancy will be filled in accordance with clause 15.3.

### **16. Chair of the Land Management Advisory Committee**

#### Chair

- 16.1 The member of the Land Management Advisory Committee appointed under clause 15.3(a) will be the Chair of the Lands Management Advisory Committee.

## Co-chair

- 16.2 The members of the Land Management Advisory Committee will appoint a Co-chair who will perform the functions of the Chair if the Chair is unavailable or unable to perform the functions of office.

## Alternate

- 16.3 If the Chair and Co-chair are unavailable or unable to perform the functions of office, the Land Management Advisory Committee will appoint another member of the Land Management Advisory Committee to serve as interim Chair.

## Duties of the Chair

- 16.4 The duties of the Chair are to:
- (a) chair meetings of the Land Management Advisory Committee;
  - (b) ensure that financial statements relating to all activities of the Land Management Advisory 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 Advisory Committee;
  - (d) monitor the presentation of the audited annual financial statements under clause 11.7; and
  - (e) perform such other duties as Council or the Land Management Advisory Committee may reasonably prescribe.

**17. Registration of Interests and Licenses**

## Beecher Bay Lands Register

- 17.1 Council will maintain a Beecher Bay Lands Register in, at a minimum, the same form and with the same contents as the First Nation Lands Register.
- 17.2 An interest or license in First Nation Land created or granted after this Land Code comes into effect is not enforceable unless it is registered in the Beecher Bay Lands Register.

## Registration of Consent or Approval

- 17.3 No instrument that requires the consent of Council or Land Management Advisory Committee approval may be registered in the Beecher Bay Lands Register unless a certified copy of the document that records the consent or approval is attached to the instrument.

Duty to Deposit

- 17.4 Every person who receives a grant of an interest or license in First Nation Land from a Member will deposit an original copy of the instrument in the Beecher Bay Lands Register.
- 17.5 Council will ensure that a copy of the following instruments is deposited in the Beecher Bay Lands Register:
  - (a) a grant of an interest or license in First Nation Land;
  - (b) a transfer or assignment of an interest in First Nation Land;
  - (c) a land use plan or subdivision plan; and
  - (d) this Land Code and any amendment to this Land Code.
- 17.6 Notwithstanding clause 17.1, nothing precludes Council from enacting a Law providing for maintenance of the Beecher Bay Lands Register in such other land registry system or facility as may meet the requirements of the Beecher Bay Lands Register.
- 18. First Nation Lands Register**
- 18.1 Council will ensure that a duplicate copy of any instrument deposited in the Beecher Bay Lands Register is deposited in the First Nation Lands Register.

**PART 4  
COMMUNITY CONSULTATION**

**19. Rights of Eligible Voters**

Rights of Eligible Voters

- 19.1 An Eligible Voter is eligible to vote in a Ratification Vote.

**20. Approval by Land Management Advisory Committee**

Approval by Committee

- 20.1 Approval by majority vote of the Land Management Advisory Committee must be obtained for:
  - (a) a land use plan;
  - (b) amendment of a land use plan;



- (c) a grant or disposition of an interest or license in First Nation Land for a term exceeding 25 years;
- (d) renewal of a grant or disposition of an interest or license in First Nation Land for a term exceeding 25 years, or that would have the effect of extending the original grant or disposition for a term exceeding 25 years;
- (e) a grant or disposition of natural resources on First Nation Land exceeding a term of one year;
- (f) a charge or mortgage of a leasehold interest on Band Land for a term exceeding 25 years;
- (g) a law enacted under clause 37; and
- (h) any Law or class of Law that Council, by Resolution, declares to be subject to this clause.

20.2 Council will, in consultation with the Land Management Advisory Committee develop laws, policies or procedures for:

- (a) conduct of meetings of the Land Management Advisory Committee;
- (b) approvals under clause 20.1, including timelines for decision-making; and
- (c) regular review of grants or dispositions issued under clause 20.1(c), (d) and (e).

## **21. Community Consultation**

### *Meeting with Committee and Elders*

21.1 Council will call a meeting of the Land Management Advisory Committee and the Elders Advisory Council to receive input prior to introducing 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 clause 5.2 or 5.3 to be subject to this Land Code;
- (d) heritage land;
- (e) environmentally sensitive property;
- (f) environmental assessment;

- (g) the transfer or assignment of interests in First Nation Land;
- (h) spousal property under clause 37;
- (i) any other matter or class of matters that Council by Resolution declares to be subject to this clause.

#### Process to Implement Laws

- 21.2 Council will, in consultation with the Land Management Advisory Committee and within a reasonable time after this Land Code takes effect, establish a process to develop and implement the Laws referred to in clause 21.1.
- 21.3 Nothing in this Land Code precludes Council or the Land Management Advisory Committee from consulting with other advisors or representatives of other jurisdictions, including other first nations, municipal corporations and regional districts.

## **22. Meeting of Members**

#### Notice of Meeting

- 22.1 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 at the meeting.

#### Manner of Notice

- 22.2 Written notice of a Meeting of Members under clause 22.1 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 Members at least 21 days before the meeting; and
  - (c) such additional methods as Council may consider appropriate.

## **23. Ratification Votes**

#### Approval by Ratification Vote

- 23.1 Approval by a Ratification Vote must be obtained for:
- (a) voluntary exchange of First Nation Land under clause 26;

- (b) amendment of the Individual Agreement that reduces the amount of funding provided by Canada;
- (c) amendment of this Land Code;
- (d) expropriation of a Member's interest under clause 24.7; and
- (e) enactment of a Law or class of Laws that Council, by Resolution, declares to be subject to this clause.

#### Individual Agreement with Canada

- 23.2 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 reduces the amount of funding provided by Canada.

#### Ratification Process

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

#### Minimum Requirements for Approval

- 23.4 A matter will be approved by a Ratification Vote if a majority of the Eligible Voters participating in the vote cast vote in favour of the matter.

#### No Verifier

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

## PART 5 PROTECTION OF LAND

### 24. Expropriation by the First Nation

#### Rights and Interests That May Be Expropriated

- 24.1 An interest or license in First Nation Land or in any building or other structure on such land may be expropriated by the First Nation in accordance with the Framework Agreement and any Law enacted in accordance with clause 24.3 of this Land Code.

## Community Purposes

24.2 An expropriation may be made only for a necessary community purpose or works of the First Nation, including but not limited to fire halls, sewage or water treatment facilities, community centers, public works, roads, schools, day-care facilities, hospitals, health care facilities or retirement homes.

## Expropriation Law

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

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

## Public Report

24.4 Before the First Nation expropriates an interest or license, Council will:

- (a) prepare a public 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

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

## Acquisition by Mutual Agreement

24.6 The First Nation may expropriate only after a good faith effort to acquire, by mutual agreement, the interest or license in First Nation Land.

Approval by Ratification Vote

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

Compensation for Rights and Interests

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

- (a) serve reasonable notice of the expropriation on each affected holder of the interest or license to be expropriated; and
- (b) pay fair and reasonable compensation to the holder of the interest or license being expropriated.

Compensation Calculation

24.9 The total value of compensation payable under clause 24.8(b) will be based on:

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

Market Value

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

Neutral Evaluation to Resolve Disputes

24.11 Subject to clause 24.13, 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.

24.12 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

24.13 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 license to compensation; and
- (b) a dispute concerning the amount of compensation.

## **25. Heritage Land**

### Elders Advisory Council Approval

- 25.1 Development will be permitted on a site designated as heritage land under a First Nation land use plan only if the proposed development receives approval by the Elders Advisory Council.
- 25.2 Clause 25.1 applies to any lands duly designated as sacred lands approved by the Elders Advisory Council.

## **26. Voluntary Land Exchange and Protection**

### Conditions for a Land Exchange

- 26.1 The First Nation may agree with another party to exchange First Nation Land for land from that other party in accordance with this Land Code and the Framework Agreement.

### No Effect

- 26.2 A land exchange is of no effect unless it receives approval by a Ratification Vote.

### Land to be Received

- 26.3 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

- 26.4 A person who negotiates a land exchange agreement on behalf of the First Nation will be designated by Resolution.

**Additional Compensation**

- 26.5 The First Nation may receive additional compensation, including money or other land in addition to the land referred to in clause 26.3.
- 26.6 Such other land may be held by the First Nation in fee simple or otherwise.

**Federal consent**

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

**Information to Members**

- 26.8 At such time as negotiation of a land exchange agreement is concluded, and at least 21 days before the Ratification Vote provided for in clause 26.2, Council or the Land Management Advisory Committee 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 clauses 26.3(a) and (b) have been met;
  - (e) a copy of the land exchange agreement; and
  - (f) a copy of the statement referred to in clause 26.7.

**Process of Land Exchange**

- 26.9 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 land will be registered in the Beecher Bay Lands Register and the First Nation Lands Register.

## PART 6 CONFLICT OF INTEREST

### 27. Conflict of Interest

#### Application of Rules

#### 27.1 Clause 27.2 applies to:

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

#### Duty to Report and Abstain

#### 27.2 If there is any financial or proprietary interest in a matter being dealt with that might involve an individual, the individual's Immediate Family or a business in which the individual holds an interest, that individual will:

- (a) disclose the interest to the Council, employment supervisor, 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

#### 27.3 Clause 27.2 does not apply to an interest that is held by a Member in common with every other Member.



Meeting of Members

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

Inability to Act

- 27.5 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

- 27.6 Determination of whether a breach of this clause has occurred may be referred to the Panel.

**PART 7  
INTERESTS AND LICENSES IN LAND**

**28. Limits on Interests and Licenses**

All Dispositions in Writing

- 28.1 An interest in, or license to use, First Nation Land may only be created, granted, disposed of, assigned or transferred by an instrument issued in accordance with this Land Code.

Standards

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

Improper Transactions Void

- 28.3 A deed, lease, contract, document, agreement or 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 license in First Nation Land after the date this Land Code comes into effect is void if it contravenes this Land Code.

Non-Members

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

## Grants to Non-Members

- 28.5 The written consent of Council is a requirement of a grant or disposition of a lease, license or permit in First Nation Land to a person who is not a Member.

**29. Existing Interests**

## Continuation of Existing Interests

- 29.1 An interest or license in First Nation Land, whether held by a Member or a person other than a Member, 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 license.
- 29.2 Council may, subject to an applicable ruling under Part 8 or by a court of competent jurisdiction, cancel or correct any interest or license issued or allotted in error, by mistake or by fraud.

**30. New Interests and Licenses**

## Authority to Make Dispositions

- 30.1 Subject to this Land Code, Council may grant:
- (a) interests and licenses in Band Land; and
  - (b) permits and licenses to take resources from Band Land.

## Conditional Grant

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

\*Lease of land/s in the Economic Development Zone

- 30.3 Subject to this Land Code, Council may grant a lease of all or part of the land/s in the Economic Development Zone to a Band Owned Entity for a term not to exceed 149 years.
- 30.4 A band Owned Entity holding a lease of the land/s in the Economic Development Zone may grant a sub-lease, license, interest, permit or mortgage in such land/s, provided the term of any such sub-lease, license, interest, permit or mortgage does not exceed 99 years and the provisions of the sections 20.1, 24, 28.5, 33.2, 34.3, 34.4, 34.5, 37, or 39 of this Land Code will not apply to such sub-leases, licenses, interests, permits or mortgages or to any sub-interests in the land/s granted by the holders of such sub-leases, licenses, interests, permits or mortgages.

**31. Certificates of Possession**

## Prohibition of Permanent Interests

- 31.1 No tenure that establishes a permanent interest in First Nation Land will be established under this Land Code.

**32. Allocation of Land**

## Allocation of Residential Lots

- 32.1 Council may, by lease, rental arrangement or other disposition, allocate lots of available land to Members for residential purposes in accordance with Laws enacted by Council.
- 32.2 A residential lot may not be allocated to a person who is not a Member.

**33. Transfer and Assignment of Interests**

## Transfer of Interests

- 33.1 Council may enact Laws providing that a Member holding an interest in First Nation Land may transfer, devise or otherwise dispose of that land to another Member.
- 33.2 Except for transfers that occur by operation of Law, including transfers of estates by testamentary disposition or in accordance with a Law enacted under clause 37:
- (a) there will be no transfer or assignment of an interest in First Nation Land without the written consent of Council; and
  - (b) the grant of an interest or license is deemed to include clause 33.2(a) as a condition of any subsequent transfer or assignment.

**34. Limits on Mortgages and Seizures**

## Protections

- 34.1 In accordance with the Framework Agreement, sections 29, 87, 89(1) and 89(2) of the *Indian Act* continue to apply on First Nation Land.

## Mortgage of Member's Interest

- 34.2 The interest of a Member in First Nation Land other than a leasehold interest may be subject to a mortgage or charge only to the First Nation.

## Mortgages of Leasehold Interests with Consent

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

## Default in Mortgage of Leasehold

- 34.4 In the event of default in the terms of a charge or mortgage of a leasehold interest, the leasehold interest is not subject to possession by the chargee or mortgagee, foreclosure, power of sale or any other form of execution or seizure, unless:
- (a) the charge or mortgage received the written consent of Council;
  - (b) the charge or mortgage received Land Management Advisory Committee approval where required;
  - (c) the charge or mortgage was registered in the First Nation Lands Register; and
  - (d) a reasonable opportunity to redeem the charge or mortgage was given to Council.

## Power of Redemption

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

**35. Residency and Access Rights**

## Right of Residence

- 35.1 The following persons have a right to reside on First Nation Lands:
- (a) subject to clause 35.2, a Member;
  - (b) a Member who has been allocated a residential lot by Council;
  - (c) a Spouse and child of a Member referred to in clause 35.1(b);
  - (d) a Member with a registered interest in First Nation Land; and
  - (e) a lessee or permittee in accordance with the provisions of the instrument granting the lease or permit.

- 35.2 A right of residence under clauses 35.1 does not imply any financial obligation on the part of Council.

## Right of Access

- 35.3 The following persons have a right of access to First Nation Land:
- (a) a lessee of First Nation Land;

- (b) an invitee of a lessee of First Nation Land;
- (c) a permittee and any person who is granted a right of access under the permit;
- (d) a Member;
- (e) a Member's Spouse and children;
- (f) an invitee of Member;
- (g) a person who is authorized by a government body or any other public body, established by or under an enactment of the First Nation, Canada or British Columbia to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey; and
- (h) a person authorized by a Law or in writing by Council.

#### Public Access

35.4 A person may have access to First Nation Land for a social or business purpose if that person:

- (a) does not trespass on occupied land;
- (b) does not interfere with an interest in land;
- (c) complies with all applicable Laws; and
- (d) no Resolution has been enacted prohibiting that person from having access to First Nation Land.

#### Trespass

35.5 It is an offence for any person to enter, reside or remain on First Nation Land other than in accordance with a right of residence or access under this Land Code.

#### Civil Remedies

35.6 Subject to a Law under clause 6.2(1), all civil remedies for trespass are preserved.

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

#### Right of Widow or Widower

36.1 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 do 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 clause.

- 36.2 A Spouse or dependant referred to in clause 36.1, 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.

## Location of Family Members

## 36.3 In the event that:

- (a) no other provision has been made by a Member referred to in clause 36.1 for the disposition of the interest in the First Nation Land; or
- (b) the Member's Spouse or dependant does not within a reasonable time make application under clause 36.2; or
- (c) a member of the Member's Immediate Family disputes the continued residence on and 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 is to receive the interest in the land.

## Meeting of Members

36.4 If a Member referred to in clause 36.1 has no other 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 call a Meeting of Members to provide advice on the disposition of the interest.

36.5 Subject to this Land Code, Council will make best efforts to implement a recommendation made under clause 36.3 or 36.4.

**37. Spousal Property Law**

## Development of Rules and Procedures

37.1 Within twelve months after the date this Land Code comes into effect Council will enact a spousal property Law providing rules and procedures applicable on the breakdown of a marriage to:

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

## Enactment of Rules and Procedures

37.2 The rules and procedures contained in the spousal property Law will be developed in consultation with the Members and the Land Management Advisory Committee.

## General Principles

- 37.3 The rules and procedures developed under clause 37.2 will take into account the following general principles:
- (a) a child of the Spouses should have a right to reside in the matrimonial home until the age of majority or until other arrangements have been made in the best interests of that child;
  - (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; and
  - (e) the rules and procedures will not discriminate on the basis of sex.

## Interim Law

- 37.4 Council may enact an interim spousal property Law at any time within the twelve month period prescribed in clause 37.1.
- 37.5 An interim Law enacted under clause 37.4 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 clause 37.1.

## PART 8 DISPUTE RESOLUTION

### 38. Dispute Resolution Panel

## Panel Established

- 38.1 A Dispute Resolution Panel is hereby established to hear and resolve disputes in relation to First Nation Land.

## Representation

- 38.2 Council will, for the purpose of identifying eligible members of a Panel, establish an eligibility list containing the names of Eligible Voters who are representative of the community, including non-resident Members.



No Remuneration

38.3 Unless Council by Resolution provides otherwise, members of a Panel will receive no remuneration.

**39. Dispute Resolution Procedure**

Disputes

39.1 A dispute related to First Nation Land may be referred by the parties to the dispute to a Panel for resolution or opinion.

Prior Disputes

39.2 For greater certainty, disputes that originated before this Land Code comes into effect may be referred to the Panel.

Optional Process

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

Informal Resolution of Disputes

39.4 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.

Application Procedures

39.5 Referral of a dispute to the Panel will be made in accordance with procedures established by Council in consultation with the eligible members of a Panel and the Land Management Advisory Committee.

Limitation Period

39.6 The limitation period for referring a dispute to a Panel is:

- (a) thirty days after the day the decision, act or omission that is the subject of the dispute occurred; or
- (b) in the case of a dispute under clause 36, 12 months after the date of the final decision of Council under that clause.

39.7 A Panel will be made up of three panelists selected by lot.

39.8 The Chair of the Land Management Advisory Committee will make the selection referred to in clause 39.7.

39.9 The panelists selected under clause 39.7 will select a chair from among themselves.

#### **40. Impartiality**

##### Duty to Act Impartially

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

##### Offence

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

##### Rejection of Application

40.3 In addition to any other penalty provided for an offense under clause 40.2, the Panel may refuse an application to hear a dispute if the Panel reasonably concludes that the applicant acted, or attempted to act, in a way to improperly influence the Panel's decision.

#### **41. Powers of Panel**

##### Powers of Panel

41.1 The Panel may, after hearing a dispute:

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

##### Rules of Panel

41.2 The Panel may, consistent with this Land Code, establish rules for procedure at its hearings and for the general conduct of its proceedings.

##### Professional Services

41.3 The Panel may retain the services of professionals to assist it in fulfilling its functions, in which case it will make best efforts to use professional services available in the community.

Decisions

- 41.4 The Panel will give written reasons for a decision.
- 41.5 Written decisions of the Panel will be signed by the chair of the Panel.
- 41.6 Subject to clause 41.7, a decision of the Panel is binding.

Appeal of Decision

- 41.7 Subject to any exception established by a Law a decision of the Panel may be appealed to the Federal Court of Canada.

Costs

- 41.8 Unless otherwise ordered by a Panel or an appellate court, the parties to a dispute will bear their own costs.

Alternate Forums

- 41.9 Nothing in this part precludes Council or the Land Management Advisory Committee from establishing additional processes for resolving disputes under this Part, which processes may include facilitated discussion, mediation or arbitration.

## PART 9 OTHER MATTERS

### 42. Liability

Liability Insurance

- 42.1 Council will arrange for, maintain and pay insurance coverage for:
  - (a) liability of the First Nation in relation to First Nation Land; and
  - (b) personal liability of the First Nation's officers and employees for acts done in good faith while engaged in carrying out duties related to First Nation Land.

Extent of Coverage

- 42.2 Council will determine the extent of insurance coverage under clause 42.1.

**43. Enforcement**

## Application of the Criminal Code

- 43.1 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 offences under a Law.

## Justices of the Peace

- 43.2 Council may enact Laws respecting appointment of justices of the peace for the enforcement of this Land Code and Laws.

## Provincial Courts

- 43.3 If no justice of the peace is appointed, this Land Code and Laws are to be enforced in the Provincial Court of British Columbia or British Columbia Supreme Court as the case may require.

**44. Amendments to Land Code**

## Ratification Vote

- 44.1 An amendment of this Land Code must receive prior approval by Ratification Vote.

**45. Commencement**

## Ratification

- 45.1 This Land Code will be ratified if:
- (a) the Members approve this Land Code and the Individual Agreement by a Ratification Vote; and
  - (b) this Land Code has been certified by the Verifier in accordance with the Framework Agreement.

## Effective Date

- 45.2 This Land Code will take effect on the first day of the month following certification of this Land Code by the Verifier, or after the Individual Agreement has been executed on behalf of Canada.