

Fort Nelson First Nation

Land Code

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PREAMBLE

WHEREAS the Citizens of the Fort Nelson First Nation have lived on our land since time immemorial, long before the arrival of the Europeans. Our land and waters have sustained us physically, culturally, and spiritually for thousands of years. We are a part of the land and it is a part of us; we hunt, trap, fish, and gather, just as our ancestors did;

AND WHEREAS we have a special relationship with our traditional lands located within Treaty 8 territory. This sacred relationship is based on respect for the spiritual value of the Earth and all species—animals, birds, fish, insects, flowers, trees, grass, fungus—and fire and waters of our territorial homeland, which were placed thereon by the Creator in order to sustain us, and which encompasses all medicine and fruit gathering places; hunting, trapping, and fishing areas; winter and summer home sites; burial sites, meditation sites, spiritual sites, and all territories in between;

AND WHEREAS we as a Nation strive for a future in which we will work together in stewardship of our land, air, species, and water, and take a central role in land and resource management—making responsible development within our territory a fundamental principle. We will strive to find harmony once again; to create a balanced approach between our traditional cultural values and the economic use of the land and resources;

AND WHEREAS today, the Fort Nelson First Nation upholds the spirit and intent of our treaty by asserting our rights to our land and taking responsibility to ensure that our future generations are able to live their lives in our territory in a way that honours our ancestors and traditional ways of being;

AND WHEREAS, we are determined to preserve this unique relationship which entrusts us to take care of the land, air, water, species, and the ecosystem as a whole, and to protect and uphold our rights for future generations.

NOW THEREFORE the Fort Nelson First Nation will resume management of its lands and resources by entering into the Framework Agreement on First Nation Land Management dated _____;

AND HERewith this Land Code is accordingly enacted as the fundamental land law of the Fort Nelson First Nation.

PART 1 PRELIMINARY MATTERS

1. Title

The title of this enactment is the Fort Nelson First Nation Land Code.

2. Interpretation

Definitions

The following definitions apply in this Land Code:

“Lands Committee” means the Lands Committee established under this Land Code.

“Community land” means any Fort Nelson First Nation land in which all members have a common interest and which have not been allocated.

“Eligible voter” means, for the purpose of voting in respect of land matters under this Land Code, a member who has attained the age of eighteen (18) years of age on the day of the vote.

“Extended family”, in respect of a person, means the person’s grandparent, parent, uncle, aunt, cousin, sister, brother, child, grandchild, spouse or common law spouse.

“Fort Nelson First Nations Land Register” means the register maintained by the Department of Indian Affairs and Northern Development under the Framework Agreement.

“*Land Code*” means the Framework Agreement on First Nation Land Management entered into between the Minister of Indian Affairs and Northern Development and the Chiefs of fourteen First Nations on February 12, 1996, as amended.

“immediate family”, in respect of a person, means the person’s or partner’s / spouse’s parent, sister, brother, child, spouse or common law spouse, niece, nephew, aunt, uncle, legal guardianship relatives

“Law” means a law enacted pursuant to this Land Code.

“Panel” means the Dispute Resolution Panel established under section 40.

“Meeting of members” means a meeting under **Part 4** to which the members are invited to attend.

“Member” means a person whose name appears or is entitled to appear on the Fort Nelson First Nation Band Membership List.

“Fort Nelson First Nation” means the Fort Nelson First Nation

“Fort Nelson First Nation land” means any portion of a reserve that is subject to this Land Code under section 5.

“Ratification vote” means a vote of eligible voters under **Part 4**.

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

“Special Members of Meeting” means a meeting held to vote on proposed law.

“Spouse” means a person who is married to another person, whether by a traditional, religious or civil ceremony.

“Transfer Agreement” means the Individual Transfer Agreement made between Fort Nelson First Nation and Her Majesty in right of Canada, dated_____.

Paramountcy

2.1 If there is an inconsistency between this Land Code and any other enactment of the Fort Nelson First Nation, this Land Code prevails to the extent of the inconsistency.

Culture and traditions

2.2 The structures, organizations and procedures established by or under its Land Code shall be interpreted in accordance with the culture, traditions and customs of the Fort Nelson First Nation, unless otherwise provided.

Language

2.3 The language of the Fort Nelson First Nation may be used to clarify the meaning of any provision in this Land Code, if the meaning of that provision is not otherwise clear in English.

Non-abrogation

2.4 This Land Code does not abrogate or derogate from any Aboriginal rights or freedoms that pertain to the Fort Nelson First Nation or its members.

Fair Interpretation

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

Fiduciary Relationship

2.6 This Land Code does not abrogate the fiduciary relationship between Her Majesty and the Fort Nelson First Nation and its members.

Lands and interests affected.

2.7 A reference to “land” in this Land Code means all rights and resources that belong to the land, and includes

(a) the water, beds underlying water, riparian rights, and renewable and non-renewable natural resources belonging to that land, to the extent that these are under the jurisdiction of Canada; and

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

3. Authority to Govern

Origin of authority

3.1 The traditional teachings of the Fort Nelson First Nation speak of the obligation of the people of the Fort Nelson First Nation to care for and respect the land and the magnificent wonders of Nature created on the land. By enacting this Land Code, the Fort Nelson First Nation is re- assuming this special responsibility.

Flow of authority

3.2 The authority of the Fort Nelson First Nation to govern its lands and resources flows from the Creator to the people of the Fort Nelson First Nation, and from the people to the Chief and Council according to the culture, traditions, customs and laws of our Fort Nelson First Nation.

4. Purpose

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

Ratification

4.2 The Land Code is ratified and confirmed when this Land Code takes effect.

5. Description of Fort Nelson First Nation land

- Fontas Indian Reserve No. 1 (FB#)
- Fort Nelson Indian Reserve No. 2 (FB#)
- Kahntah Indian Reserve No. 3 (FB#)
- Snake River Indian Reserve No. 5 (FB#)

LANDS MANAGEMENT COMMITTEE

Council shall establish a Land Management Committee consisting of 5 to 7 members.

- (1) The **Director of Lands, in consultation with the Executive Director, will develop and recommend to Council**, a Terms of Reference for the Lands Management Committee which will have provisions that set out:
 - a. The composition of the Committee, including quorum;
 - b. Eligibility criteria and process of selecting members of the Committee
 - c. The term of the office for Committee members;
 - d. The process for selecting an Chair;
 - e. The duties of the Chair, and
 - f. Policies for remuneration and recovery of expenses incurred by Committee members.
- (2) **Within 1 year** of the date the Lands Code comes into effect Council shall appoint or confirm Members to the Lands Management Committee.
- (3) Until Council approves a Terms of Reference and appoints a new Lands Management Committee, the Land Code Development Committee members in place on the date the Land Code comes into effect will serve as the transitional Lands Management Committee.
- (4) The members of the Lands Committee are to be selected as follows:
 - (1) One eligible voter is to be appointed by the Council;
 - (2) One member of Council is to be appointed by the Council;
 - (3) The other members are to be elected by eligible voters.
- (5) The Lands Management Committee will have the following responsibilities:
 - a. Assist with the development of the FNFN Reserve Land administration system;
 - b. Advise Council and its staff on matters respecting FNFN reserve Lands including the granting of Interests and Licenses;
 - c. Recommend Land Laws, regulations, policies and practices respecting FNFN Reserve Land to Council;
 - d. Consult with Members and Non-Members on FNFN Reserve Land issues, and to make recommendations on the resolution of those issues to Council;
 - e. Oversee Meetings of Members and ratification votes;
 - f. Oversee the implementation of the Land Code and Land Laws; and
 - g. Perform such other duties as may be delegated or assigned by Resolution or Land Law under this Land Code.
 - h. Assist in the communication of land issues between members and the Council; and
 - i. Oversee community approvals under this Land Code.
 - j. Within a reasonable time after this Land Code takes effect, the Lands Committee shall, in consultation with the community, ensure that laws, rules and procedures, as may be appropriate, are developed that address the following matters:
 - i. Environmental protection and assessment in relation to FN land;
 - ii. Any outstanding issues on the resolution of disputes in relation to FN land;
 - iii. Any other matter referred by Council.

(6) Unless otherwise directed by Council and within a reasonable time after this Land Code takes effect, the Lands Management Committee shall, in consultation with the Members, **ensure that Land Laws**, rules and procedures, as may be appropriate, in relation to FNFN Reserve Lands, **are developed** for Council approval, that address the following matters:

- a. Land Use planning, zoning and development process;
- b. A Member engagement and approval process to develop and implement Land Laws;
- c. Environmental protection and assessment in
- d. relation to FNFN Reserve Land;
- e. Protection and management of cultural heritage resources;
- f. Matrimonial real property on reserve under Section 32;
- g. The Allotment of available FNFN Reserve Lands to Eligible Members;
- h. Monitoring and enforcement processes, and
- i. Any other matter referred by Council.

(7) The Committee shall establish rules, consistent with those established by Council, for the procedure at its meetings and for the general conduct of its affairs. These rules shall be provided to Council for approval and added as an Appendix to the Committee's terms of reference.

Vacancy on Lands Committee

(8) The Office of a member of the Lands Management Committee becomes vacant if the person, while holding the office:

- a. Resigns;
- b. Is or becomes ineligible to hold office;
- c. Transfers his or her membership to another First Nation; or
- d. Is absent for 3 consecutive meetings of the Lands Committee for a reason other than illness or incapacity, and without being authorized to do so by the Lands Committee.

PART 3 FIRST NATION LEGISLATION

PART 3 A: DEVELOPING FORT NELSON FIRST NATION LAWS

Framework Agreement Section 5.2 (e) "The land code of a First Nation will set out the procedures for making and publishing its First Nation laws."

In accordance with this Land Code, the FNFN will, within a reasonable period of time, make Land Laws respecting:

- (a) development, conservation, protection, management, use of FNFN reserve lands;
- (b) interests and licences in relation to FNFN Reserve lands; and
- (c) any matter necessary or ancillary to the making of Land Laws in relation to the FNFN Reserve Lands.

To facilitate meaningful engagement and consultation, notice shall be provided to the Membership by the following methods:

- Publication of a notice in the FNFN newsletter mailed to Electors or by separate written notice, delivered or mailed to Electors, and
- Where the FNFN has an email address for a Member, by email; and
- Posting of the notice in a public area of the FNFN administration building; and
- All FNFN Social media and FNFN websites; and
- Other methods as required including telephone calls and door-to-door deliveries.

For greater certainty, Land Laws may be made along with associated regulations in relation to FNFN Reserve Lands, including, but not limited to:

- (a) Regulation, control and prohibition of zoning, Land use, subdivision control and Land development;
- (b) The creation, regulation and prohibition of Interests and Licences in relation to Fort Nelson First Nation Land;
- (c) Environmental assessment and protection;
- (d) Provision of local services in relation to Fort Nelson First Nation Land and the imposition of equitable user charges;
- (e) Enforcement of Fort Nelson First Nation Land Laws;
- (f) Provision of services for the resolution, outside the courts, of disputes in relation to Fort Nelson First Nation land;
- (g) archaeological assessment and protection of archaeological and cultural resources;
- (h) regulation, control, authorization and prohibition of residency, access and the occupation and development of land
- (i) removal of, and enforcement and prosecution against persons trespassing upon FNFN Reserve Lands or frequenting FNFN Reserve Lands or areas of FNFN Reserve Lands for prohibited purposes
- (j) setting aside, protection, and regulation of heritage sites, cultural sites, traditional sites, parks, parklands, trails and recreational lands, spiritual sites and wildlife refuges
- (k) Any related matter as deemed necessary by the Council.

PART 3B: COUNCIL SHALL ENACT FNFN LAWS IN ACCORDANCE WITH THIS PART

Requests to initiate the process must involve a matter that is within control of the FNFN and be reasonable and realistic. The Consideration for development of a FNFN Law may be initiated by:

1. A Council Resolution, setting out the specific subject matter of the proposed law; or
2. The development of a Law may be proposed at a duly convened meeting of Council by:

- A Council member, or
 - A representative of the Lands Management Committee
3. Laws proposed by FNFN Band Staff:
- Any Member or an FNFN employee may propose a law to the Land Management Committee for consideration.
 - Following consideration of a law proposed under this section, the Land Management Committee may choose to propose the law to Council.
4. Rationalization of proposal

Any proponent bringing forward a proposed law will submit a written explanation of the rationale for the proposed law, which at a minimum,

- Identifies the existing issue and/or concern that the proposed law is intended to address; and
- Identifies the potential benefits of the proposed law to the FNFN Band.

PART 3C: ALL FNFN LAWS SHALL BE DEVELOPED UNDER THE FOLLOWING PROCEDURES

First Reading: Acceptance in Principle

Following due diligence and upon initiating a proposed law, Council shall table the draft law at a regular meeting of Council.

Council shall provide notice to the Membership of the subject matter of the proposed law and the general nature of provisions to be included in the proposed law.

The notice shall request written comments from Members on the subject matter and content of the proposed law, and shall specify a date at least 30 days from the date of the notice for Members to respond to Council.

Upon expiration of the time for submitting comments, Council shall take into consideration the written comments, the needs of the community and other relevant matters and shall prepare a draft law.

After considering the draft law at the Council meeting, Council shall, by Resolution:

- Accept the draft law in principle
- Reject the draft law (upon the request of any Elector, Council shall explain the reasons for rejecting a draft law), or:
- Request further work on the draft law and decide to re-table the draft law at a future Council meeting. Financial implications of the draft law are to be included.

Second Reading: Membership Information Session

Where Council has accepted the draft law in principle, it shall schedule a Membership Information Session for the purpose of considering the draft law, and shall provide notice to the Membership at least 30 days before the date of the meeting.

The notice shall include the following details:

- The date, time and place of the Membership Information Session
- A summary of the draft law; and
- Notification that a full copy of the draft law can be obtained by Members at the FNFN administration building.

Copies of the draft law shall be made available to Members attending the Membership Information Session.

At the Membership Information Session, Council or its designate shall explain the purpose and provisions of the draft law. Any financial implications are to be included. Members may ask questions and provide comments.

Third Reading: Presentation of Final Draft Law for Approval

After the Membership Information Session, Council shall consider the comments received from Members, the needs of the Community and other relevant matters, and shall prepare a final draft law that will be presented for consideration of the Members.

Notice of the Council meeting where the final draft law will be considered shall be posted at least 30 days before the meeting and shall include:

- A summary of the final draft law;
- Notification that a full copy of the final draft law can be obtained by Members at the FNFN administration building
- A statement that the final draft law will be considered at the Council meeting, and;
- The date, time, and place of the Council meeting.

At the Council meeting, Council shall consider the final draft law and, by Resolution, do one of the following:

- Make changes to the final draft law; or
- Reject the final draft law; or
- Decide to hold another Membership Information Session for further comment on the draft law; or
- Refer the final draft law to a Special Membership Meeting for vote by Electors, or
- Require a referendum, to be held in accordance with this Land Code Part 4 (2) Community Approval to enact the Law.

Council shall post notice in a public place of the FNFN administration building, setting out the decision reached by Council concerning a final draft law.

Where Council decides to make substantive changes to a final draft law, Council shall schedule a further Membership Information Session to consider the draft law and the procedure set out in section # shall be followed.

Special Members Meeting

Where Council decides to refer the final draft law to a Special Membership Meeting for enactment by Electors present at such meeting, Council shall schedule a date for the Special Membership Meeting.

Notice of the Special Membership Meeting where the final draft law will be considered for enactment shall be given to the Membership at least 30 days before the meeting and shall include:

- A summary of the final draft law;
- Notification that a full copy of the final draft law can be obtained by Members at the FNFN Administration building;
- A statement that there will be a vote by secret ballot of the Electors on whether or not to enact the final draft law; and
- The date, time and place of the Special Membership Meeting also specifying the time period during which the voting will take place.

At the Special Membership Meeting:

- copies of the final draft law shall be made available for Members
- the purpose and provisions of the final draft law shall be explained
- Members shall be entitled to ask questions and provide comments

Upon completion of discussion on the final draft law, the Electors, including Council members, present at the Special Membership Meeting shall vote by secret ballot on the final draft law.

The law shall be deemed enacted if a majority of Electors present at the Special Membership Meeting vote in favour of enacting the law. The decision at the Special Membership Meeting shall be recorded in the minutes and shall have the same effect as a Resolution enacting a FNFN Law.

The result of a referendum shall have the same effect as a Resolution enacting a FNFN Law.

Procedures Upon Enactment of a FNFN Law

1. A FNFN Law enacted by Resolution shall be signed by the Council members signing the Resolution enacting the FNFN Law.
2. A FNFN Law enacted by vote of Electors at a Special Membership Meeting or enacted by referendum shall be signed by all Council members.
3. A FNFN Law enacted by Resolution shall come into effect on the date the Resolution was passed or on such date specified in the Resolution.
4. A FNFN Law enacted by vote of Electors at a Special Membership Meeting or enacted by a referendum shall come into effect on the date of the Special Membership Meeting or on the date of the referendum.
5. Notice of the enactment of a FNFN Law shall be posted in a public area of the FNFN administration building within 7 days of its enactment.
6. Where a FNFN Law has been enacted, original copies of the FNFN Law shall be deposited in the registry of FNFN Laws.

7. The Register of FNFN Laws shall be accessible to the public.
8. A true copy of all FNFN Laws shall be kept in the FNFN administration building.
9. Copies of FNFN Laws shall be provided to Members and other persons, upon payment of a reasonable copying fee.
10. No FNFN Law shall be set aside or be declared invalid by reason only that a Council member at the time of the enactment of the FNFN Law subsequently ceases to be a member of Council.
11. The failure of a Council member to sign a validly enacted FNFN Law does not invalidate the enactment of the FNFN Law

PART 4 COMMUNITY MEETINGS AND APPROVALS

1. Meetings of Members

Meetings of Members

Council shall call a meeting of Members prior to:

- (a) declaring Land or an Interest to be subject to this Land Code;
- (b) enacting a Land law respecting a community plan or subdivision plan;
- (c) any development affecting a heritage site or an environmentally sensitive property;
- (d) enacting a Land law respecting environmental assessment and protection;
- (e) enacting a Land law respecting the transfer and assignment of rights and Interests in Fort Nelson First Nation Land;
- (f) enacting a Land law respecting matrimonial real property on reserve;
- (g) enacting a Land law respecting the rate and criteria for the payment of fees or rent for Fort Nelson First Nation Land;
- (h) enacting a Land law respecting the rights and procedures on community expropriation; and
- (i) respecting any other matter, Land law or class of law that Council, by Resolution, declares to be subject to this section.

No Quorum

No quorum or minimum level of participation is required at Member Information Sessions.

2. Community Approval

Community Ratification

Community approval through a Referendum shall be obtained for the following:

- (a) any master Land use plan;
- (b) any new grant or disposition of an Interest or Licence in any Fort Nelson First Nation Land exceeding a term of thirty five (35) years;
- (c) any renewal of a grant or disposition of an Interest or Licence in any Fort Nelson First Nation Land that extends the original term beyond thirty five (35) years;
- (d) any grant or disposition of any non-renewable natural resources on any Fort Nelson First Nation Land exceeding a term of five (5) years;
- (e) any deletion of a heritage site;

- (f) any voluntary exchange of Fort Nelson First Nation Land; and
- (g) any other matter, Land law or class of law that Council, by resolution, declares to be subject to this section.

3. Participation of Members

Participation of Members

Every Member is entitled to participate in the meeting of Members.

4. Participation of Eligible Voters

Participation of Eligible Voters

Every Eligible Voter is entitled to participate in community approvals.

Permission of Council

A person, other than a Member, authorized by Council may attend a meeting of Members.

Informed Decision

Council may schedule more than one meeting of Members as may be necessary to ensure that Members are well informed before making a decision on a proposed Land law or Land matter.

Utility Permits Excepted

Community approval is not required for an easement, right of way or permit granted by Council for utilities, including telecommunications, water, electricity, natural gas, sewer services and ancillary services.

Policies Consultation, Approval
and Ratification

For greater certainty, Council may make Land laws or policies:

- a) for meetings of Members;
- b) for community consultations;
- c) for community approvals;
- d) for ratification votes; and
- e) respecting any other matter, that Council, by resolution, declares to be subject to part 3 of this Land Code.

Method of Voting

Community approval shall be obtained by one or more of the following methods:

- (a) establishing polling locations;
- (b) show of hands;
- (c) mail-in ballot;
- (d) alternative voting methods, such as electronic and telephone voting; or
- (e) any other method outlined in voting policies.

5. Meeting of Members and Community Approval Procedures

Notice of meeting

Council shall give written notice of the meeting of Members and any matter requiring community approval at a meeting of Members, and include in the notice:

- (a) the date, time and place of the meeting;
- (b) brief description of the matter to be discussed;
- (c) brief description of any matter that requires community approval; and
- (d) other information and material that Council considers appropriate.

Manner of notice

The notice shall be given to the Members before the meeting or vote, by:

- (a) posting the notice in public places;
- (b) providing the notice to Members and taking reasonable steps to locate and inform Members who reside on and off-reserve;
- (c) posting the notice online; and
- (d) additional methods Council considers appropriate.

A. Quorum for Special Members Meeting

In order to obtain a quorum for approval at the Special Members Meeting, at least ten percent (10%) of Eligible Voters shall participate.

Approval by Majority

A matter shall be considered approved if a majority of the votes are to approve the matter.

Second Community Approval Vote

If a quorum is not obtained at a first Special Members Meeting, a second community approval vote may be called. There will be no quorum requirement for this second meeting.

Approval by Majority

A matter shall be considered approved at a second community approval vote, if a majority of votes are in favour.

B. Quorum for Ratification Votes

Community Approval
by Ratification vote

Community approval by ratification vote shall be obtained for an amendment to this Land Code.

Exceptions

A community approval by ratification vote is not required for:

- (a) an amendment to the description of Land of this Land Code;
- (b) revisions to this Land Code made pursuant to **section 0; and**
- (c) an amendment to, or renewal of, the Individual Agreement.

Ratification process

Any ratification vote required under this Land Code may be conducted in a similar manner as the Fort Nelson First Nation Community Ratification Process, which was used to ratify this Land Code.

No verifier

A verifier is not required in any ratification vote.

A. Referendum Approval by Majority

In order to obtain a quorum for Ratification vote under this Land Code at least twenty-five percent (25%) of Eligible Voters shall register to vote.

Approval by majority

A matter shall be considered approved at a ratification vote if a majority of fifty percent plus one (50%+1) vote to approve the matter.

Second Ratification Vote

If a quorum was not obtained at a first vote, a second vote may be called.

A matter shall be considered approved at a second ratification vote if a majority votes in favour
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PART 5 INTERESTS AND LICENCES IN LAND

Revenue from Land and Natural Resources

Determination of
fees and rent

The Lands Committee shall, subject to the approval of Council, establish the process and recommend any Land laws, rules and policies for determining:

- (a) the fees and rent for Interests and Licences in Fort Nelson First Nation Land;
- (b) the fees for services provided in relation to any Fort Nelson First Nation Land; and
- (c) the fees and royalties to be paid for the taking of natural resources from Fort Nelson First Nation Land.

Registration of Interests and Licences

Enforcement of Interest and Licences

An Interest or Licence in Fort Nelson First Nation Land created or granted after this Land Code takes effect is not enforceable unless it is registered in the First Nation Lands Register.

Registration of Consent or approval

An instrument granting an Interest or Licence in Fort Nelson First Nation Land that requires the consent of Council, or community approval, shall include a form of certificate indicating that the applicable consent or approval has been obtained.

Duty to deposit

A copy of the following instruments shall be deposited in the First Nation Lands Register:

- (a) any grant of an Interest or Licence in Fort Nelson First Nation Land;
- (b) any transfer or assignment of an Interest or Licence in Fort Nelson First Nation Land;
- (c) every Land use plan, subdivision plan or resource use plan;
- (d) every Land law: and
- (e) this Land Code and any amendment to this Land Code.

Limits on Interests and Licences

All dispositions in writing

An Interest or Licence in Fort Nelson First Nation Land may only be created, granted, disposed of, assigned or transferred by a written document made in accordance with this Land Code and any relevant Land law.

Standards

Council may establish mandatory standards, criteria and forms for Interests and Licences in Fort Nelson First Nation Land.

Improper
Transactions void

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

Existing Interests

Continuation of
existing Interests and Licences

Any Interest or Licence in Fort Nelson First Nation Land that existed when this Land Code takes effect will, subject to this Land Code, continue in force in accordance with its terms and conditions.

Voluntary replacement of
existing Interests and Licences

For greater certainty, Interests or Licences previously issued under the Indian Act shall continue in effect after the coming into force of this Land Code unless the Member or non-Member voluntarily agrees to have the Interest or Licence replaced by a new Interest or Licence.

Replacing the role of the Minister

Immediately upon the coming into force of this Land Code, Canada transfers to Fort Nelson First Nation all the rights and obligations of Canada as grantor in respect of existing Interests and Licences in or in relation to Fort Nelson First Nation Land.

Unregistered Interests

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

New Interests and Licences

Authority to make
Dispositions

Council may, on behalf of Fort Nelson First Nation, grant:

- (a) Interests and Licences in Fort Nelson First Nation Land, including, member allocations, leases, permits, easements and rights-of-ways; and
- (b) Licences to take natural resources from Fort Nelson First Nation Land, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances.

Conditional grant

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

Role of the Lands Committee

The Lands Committee shall advise Council on the granting of Interests or Licences and may be authorized to act as a delegate of Council under this section.

Interests of Non-Members

Grants to non-Members

A transfer or other disposition of all or any part of an Interest or Licence in Fort Nelson First Nation Land to a person who is not a Member shall not be effective unless and until it is confirmed by a resolution of Council.

Certificates of Possession or Member Interests

Application

For greater certainty, the Fort Nelson First Nation will never have Certificates of Possession on FNFN reserve lands.

Member Interests previously issued under the *Indian Act* shall continue to exist after the coming into force of this Land Code.

Allocation of Land to Members

Policies and procedures for allocation of Land

Subject to the provisions of this Land Code, Council in consultation with the Lands Committee shall establish Land laws, policies and procedures for the allocation of Land to Members.

Allocation

Council may, in accordance with this Land Code:

- (a) allocate Land to Members; or
- (b) issue a certificate for an interest to a Member for Land allocated to that Member.

No allocation of Land to non-Members

A person who is not a Member is not entitled to be allocated Land or to hold a permanent Interest in Fort Nelson First Nation Land.

Transfer and Assignment of Interests

Transfer of Member Interest

A Member may transfer or assign an Interest in Fort Nelson First Nation Land to another Member without community approval or the consent of Council.

Consent of Council

There shall be no transfer or assignment of an interest in Fort Nelson First Nation Land without the written consent of Council, except for:

- (a) transfers between Members;
- (b) transfers that occur by operation of law, including transfers of estate by testamentary disposition; and
- (c) transfers in accordance with the matrimonial real property on reserve law.

Limits on Mortgages and Seizures

Protections

In accordance with the Land Code, the following provisions of the Indian Act, as amended from time to time, continue to apply to the Fort Nelson First Nation Land:

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

Mortgage of Allocated Land

The Interest of a Member in First Nation Land may be subject to a mortgage or charge, but only to a Member or, the Fort Nelson First Nation with the express written consent of Council.

Mortgages of leasehold Interests with consent

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

Time limit

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

Default in mortgage

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 was registered in the First Nation Lands Register; and
- (c) a reasonable opportunity to redeem the charge or mortgage is given to Council on behalf of Fort Nelson First Nation.

Power of redemption

Subject to prior redemption by the lessee or Member, Council may redeem the charge or mortgage from the charger or mortgagor in possession and shall thereupon acquire all the rights and Interests of the charger or mortgagor and of the lessee or Member for all purposes after the date of the redemption.

Waiver of redemption

Council may waive its right to redemption for any charge or mortgage of a leasehold Interest or Licence.

Residency and Access Rights

Right of residence

The following persons have a right to reside on Fort Nelson First Nation Land:

- (a) Members and their Spouses and children;
- (b) Members with a registered Interest in Fort Nelson First Nation Land;
- (c) any invitee of a Member referred to in clause (a) or (b);
- (d) lessees and permittees, in accordance with the provisions of the granting instrument; and
- (e) a person authorized in writing by Council, Lands Committee or by a Fort Nelson First Nation Land law.

Right of Access

The following persons have a right of access to Fort Nelson First Nation Land:

- (a) a lessee and his or her invitees;
- (b) a person granted a right of access under a permit;
- (c) Fort Nelson First Nation Members and their Spouses and children and his or her invitees;
- (d) a person who is authorized by a government body or any other public body, established by or under an enactment of the Fort Nelson First Nation, 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 provided that the person received written authorization from Council; or
- (e) a person authorized in writing by Council or Lands Committee or by a Fort Nelson First Nation Land law.

Public access

Any person may have access to Fort Nelson First Nation Land for any social or business purposes, if:

- (a) the person does not trespass on occupied Land and does not interfere with any Interest in Land;
- (b) the person complies with all applicable laws; and
- (c) no resolution has been enacted barring that person.

Use of Roads

Any person may have the right of access to Fort Nelson First Nation public roads, subject to this Land Code and Land laws.

Trespass

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

Civil remedies

All civil remedies for trespass are preserved.

Transfers on Death

Indian Act application

Until Fort Nelson First Nation exercises jurisdiction in relation to wills and estates, the provision of the Indian Act dealing with wills and estates shall continue to apply with respect to Interests in Fort Nelson First Nation Land.

Registration of transfer

A person who receives an Interest in Fort Nelson First Nation Land by testamentary disposition or succession in accordance with a written decision of the Minister, or his or her designate, pursuant to the Indian Act, is entitled to have that Interest registered in the First Nation Lands Register.

Disposition of Interest

If no provision has been made by the deceased Member of the disposition of the Interest to another Member, the following rules apply:

- (a) the Minister or his or her delegate may make application to Council requesting that an instrument evidencing lawful possession or occupation of Fort Nelson First Nation Land be issued; or
- (b) a certificate for an Interest or other instrument may be issued in accordance with procedures established by Council, or application of the Minister or his or her delegate, if the beneficiary or purchaser is a Member of the Fort Nelson First Nation.

Matrimonial / Spousal Property Law

Council shall enact a matrimonial real property on reserve law within 12 months from the date that this Land Code

takes effect. The FNFN Matrimonial real property law will define rules and procedures applicable on the breakdown of a marriage, to:

- a) The use, occupancy and possession of FNFN reserve lands;
- b) If appropriate, the division of interests in that land, and
- c) The division of the value of improvements in that Land

The rules and procedures contained in the matrimonial real property on reserve lands shall be developed and implemented by the Lands Management Advisory Committee in consultation with the Members and approved by the FNFN Electors. The Matrimonial Law will be go through a formal ratification vote as defined in the Family Homes on Reserves and Matrimonial Interests or Rights Act, Section 9 – 10 Community Approval.

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

- a) The rules and procedures shall not discriminate on the basis of sex; and
- b) Only Members are entitled to hold an Allotment in FNFN reserve lands or a charge against an Allotment in FNFN Reserve Lands.

PART 6 PROTECTION OF LAND

Expropriation

Acquisition by Mutual Agreement

The Fort Nelson First Nation may expropriate an Interest or Licence in Fort Nelson First Nation Land, provided that it has made a good faith effort to acquire, by mutual agreement, the Interest or Licence.

Rights and Interests that may be expropriated

An Interest or Licence in Fort Nelson First Nation Land, or in any building or other structure on that Land, may only be expropriated by Fort Nelson First Nation in accordance with the Land Code and any Land law enacted for the purpose of establishing the rights and procedures for community expropriations.

Community purposes

A community expropriation shall only be made for necessary community works or other Fort Nelson First Nation purposes, including a fire hall, sewage or water treatment facility, community center, public works, utilities, roads, schools, daycare facility, hospitals, health-care facility, and retirement home.

Expropriation Land laws

Before proceeding to make any community expropriations in accordance with this Land Code and the Land Code, Council shall enact a Land law respecting the rights and procedures for community 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

Before Fort Nelson First Nation expropriates an Interest or Licence, it shall make a public report on the reasons justifying the expropriation.

Member notification

In the case of an expropriation of a Member's Interest in Fort Nelson First Nation Land, the affected Member or Members shall receive notification of the expropriation within a reasonable time prior to the release of the public report.

Rights that may not be expropriated

In accordance with clause 17.6 the *Land Code*, an Interest of Canada or the province in Fort Nelson First Nation Land is not subject to expropriation by the Fort Nelson First Nation.

Compensation for rights and Interests

Fort Nelson First Nation shall, in accordance with its Land laws and the Land Code:

- (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

In accordance with clause 17.4 the Land Code, Fort Nelson First Nation shall calculate the total value of the compensation under this section based on the heads of the compensation set out in the Expropriation Act (Canada).

Market value

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 by a willing seller to a willing buyer under no duress.

Neutral evaluation to Resolve Disputes

The resolution of disputes concerning the right of the Fort Nelson First Nation to expropriate shall be determined by neutral evaluation, in the same manner as provided in part IX of the Land Code, and the sixty (60) day period referred to in the Land Code shall be applied, as appropriate in the circumstance, by the neutral evaluator.

Arbitration to resolve
Disputes

The resolution of the following disputes shall be determined by arbitration, in the same manner as provided in part IX of the Land Code:

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

Voluntary Exchange of Fort Nelson First Nation Land

Conditions for a land
exchange

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

No effect

A land exchange is of no effect unless it receives community approval in accordance with this Land Code and with **clause 14.2 of the Land Code**.

Land to be received

No land exchange may occur unless the land to be received in the exchange meets the following conditions:

- (a) it shall be equal to or greater than the area of the Fort Nelson First Nation Land to be exchanged;
- (b) it shall be at least comparable to the appraised value of the Fort Nelson First Nation Land; and
- (c) it shall become a reserve and Fort Nelson First Nation Land subject to this Land Code.

Negotiators

The person who will have authority to negotiate a land exchange agreement on behalf of the Fort Nelson First Nation shall be designated by resolution.

Additional land

The Fort Nelson First Nation may negotiate to receive other compensation, such as money or other additional parcels of land, in addition to the parcel which is intended to become a reserve. Such other parcels of land may be held by the Fort Nelson First Nation in fee simple or some other manner.

Federal Consent

Before the Fort Nelson First Nation concludes a land exchange agreement, it shall receive a written statement from Canada clearly stating that Canada:

- (a) consents to set apart as a reserve the land to be received in exchange, as of the date of the land exchange or such later date as Council may specify; and

- (b) consents to the manner and form of the exchange as set out in the exchange agreement.

Community notice

Once negotiations on the land exchange agreement are concluded, Council shall provide the following information to Eligible Voters ____ days before the vote:

- (a) a description of the Fort Nelson First Nation 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 exchanged;
- (d) a report of a certified land appraiser setting out that the conditions for the land to be received in the exchange have been met;
- (e) a copy or summary of the exchange agreement; and
- (f) a copy of Canada's consent.

Process of land
exchange

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) Council must pass a resolution authorizing Canada to transfer title to the Fort Nelson First Nation Land being exchanged, in accordance with the exchange agreement;
- (c) a copy of the instruments transferring title to the relevant parcels of land must be registered in the First Nation Lands Register; and
- (d) the land to be set apart as a reserve has been subject to an environmental audit, and clearance or remediation as necessary, or that Council is satisfied that adequate provisions have been made for such clearance or remediation at no cost to Fort Nelson First Nation, and with full indemnification to Fort Nelson First Nation.

PART 7 ACCOUNTABILITY

PART 7 (1) – DEFINITIONS PERTAINING TO CONFLICT OF INTEREST

This Part applies only to a Conflict of Interest relating to the management and administration of Fort Nelson First Nation (FNFN) Reserve Lands, Natural Resources, or revenues arising from said lands. This applies to all Council Members of the FNFN and to all members of Council Committees and Boards, all officers, employees, the Lands Management Committee, and to all contractors of the FNFN.

"Apparent Conflict of Interest" whereby a reasonably well informed person would perceive that the Individual's ability to exercise a power or perform a duty or function of their office or position is affected by the Individual's private interests.

“Committee” means a Committee that is acting on delegated authority of the Council. (Examples: Economic Development Committee, Community Education Authority)

”Conflict of Interest” any situation whereby the Individual or a member of their immediate family has a personal or business interest in a transaction under consideration by authorized representatives of the FNFN. A Conflict of Interest occurs when an elected official or fiduciary who, contrary to the obligation and absolute duty to act for the benefit of the Nation, exploits the relationship for personal benefit.

“Immediate family member” is defined as (a) spouse or common-law partner, (b) their or their spouse’s / common-law partner’s child, (c) their or their spouse’s / common-law partner’s parent, (d) their or their partner’s grandparents, sibling, aunt, uncle, niece, or nephew. Immediate family also includes in-laws (parent-in law, sibling-in law), legal guardianship relationships, step-parents, and step-children.

“Individual” means a person holding a Council position, an Employee, a Committee Member, a Land Committee Member, and a Contractor.

“Private interests” mean the Individual’s personal and business interests and includes the personal and business interests of immediate family members.

PART 7 (2) GENERAL OBLIGATIONS PERTAINING TO ALL POSITIONS

General Obligations

In the performance of their duties and functions, Individuals shall act honestly and in good faith and in the best interests of FNFN. They shall avoid circumstances that could result in a Conflict of Interest or an apparent Conflict of Interest.

Individuals shall avoid placing themselves in circumstances where their ability to exercise a power or perform a duty or function of their office or position could be influenced by the interests of any person to whom they owe a private obligation or who expects to receive some benefit or preferential treatment from them.

The Senior FNFN Administration Manager shall ensure that Individuals (as defined above) is informed of their obligations under this Part and shall take steps to ensure they comply with these obligations.

Gifts and Benefits

- (1) The Individual shall not solicit, receive or accept a gift or service where such action could reasonably be inferred to influence them in the exercise of the performance of their duties or functions.
- (2) Despite Section (1) (as described above), a gift or benefit may be accepted if the gift or benefit
 - (a) would be considered within:
 - normal protocol exchanges or social obligations associated with the position / office held,
 - normal exchanges common to business relationships, or
 - normal exchanges common at public cultural events of FNFN ,
 - is of nominal value;

- is of a type that the policies of the Council have determined is acceptable.

(b) Where a gift with a value greater than \$500 (five hundred dollars) is given to Individuals, the Individual shall make a written disclosure of the gift to the Senior FNNF Administration Manager and the gift shall be treated as the property of FNNF.

Confidential Information

Individuals shall keep confidential all information received while performing their duties or functions unless the information is generally available:

- i. to members of the public; or
- ii. to all members of FNNF.

The confidential information shall only be used for the specific purposes for which it was provided. Individuals shall not make use of any information received in the course of exercising their powers or performing their duties or functions to benefit their private interests or those of relatives, friends or associates.

Competition with FNNF Owned Businesses

No Individual shall, during the term of his/her office, engage either directly or indirectly in any manner as a partner, officer, director, shareholder, advisor, employee, or in any other capacity, in any business similar to one carried on by FNNF, without first:

1. Complying with the Provisions of this Part
2. Obtaining a Resolution, in accordance with this Part, approving their participating in the business or activity that is similar to the ones carried out by the FNNF owned businesses.

Use of FNNF Property or Information

The Individual shall not use property owned by the FNNF for personal or business benefit nor purchase property owned by the FNNF, unless such purpose or purchase are equally available to all Members, and the transaction is approved in accordance with these rules.

The Individual shall not take personal advantage of an opportunity available to the FNNF, unless Council has clearly decided against pursuing the opportunity and the opportunity is subsequently made equally available to all Members.

Individuals shall not use his or her position for their personal or business benefit or that of an immediate family member. This duty does not prevent the Individual or their immediate Family members from transacting business with others who do business with the FNNF, provided there is compliance with this Part.

The Individual shall not make use in any way of information received as a consequence of, or in the course of, his or her position for their personal or business benefit or for the personal or business benefit of any immediate Family member.

No Conflict

The Individual's private interests do not give rise to a Conflict of Interest if:

- 1) Those interests are the same for all members of FNFN of which the Individual is a member.
- 2) The Individual is a beneficiary or shareholder of a corporation, society, or other entity owned or controlled by the FNFN entering into a transaction with Council; or
- 3) An immediate family member is an employee of the company that is entering into a transaction with Council or having a matter determined by Council and such employee is not an owner of the company.

PART 7 (3)– DEFINED SPECIFIC RESPONSIBILITIES AND OBLIGATIONS BASED ON POSITION OR OFFICE HELD

7 (3) (A) Obligations Specific to Council Members and Land Committees Members

Disclosure of Interests by Council Members and Land Committee Members

The Member shall file a written disclosure of the following information with the Senior FNFN Administration Manager:

- (a) the name of the Member's spouse and entities they (Member and Spouse) are affiliated with;
- (b) the employer of the Member and the Member's spouse;
- (c) real property owned by the Member or the Member's spouse;
- (d) business interests and material investments of the Member and the Member's spouse,
- (e) a gift referenced in the Gifts and Benefits section

The Member shall file a written disclosure on the following occasions:

- (a) within 30 days of being elected;
- (b) as soon as practical after a material change in the information previously disclosed; and
- (c) on April 15 of each year that the Member holds office.

The Senior FNFN Administration Manager shall establish and maintain a registry of all information disclosed. On the written request of a member of FNFN and any person engaged in any aspect of the financial administration of FNFN, the Senior FNFN Administration Manager shall confirm or reject whether there is a potential for a Conflict of Interest based on the particulars of the situation under consideration.

7.3 (B) Obligations Specific to Contractors

If a contractor is retained to provide services to the FNFN, the contractor shall comply with these Rules as if the contractor were an officer or employee of FNFN.

Business Opportunities

A contractor shall not take advantage of a business or investment opportunity being considered by FNFN and which the contractor becomes aware of while performing services for FNFN unless FNFN has determined not to pursue the opportunity.

PART 7 (4) - PROCEDURE FOR ADDRESSING CONFLICT OF INTEREST

This Part and all following Parts define the procedure for addressing Conflict of Interest situations and applies to all roles and positions.

- 1 The Individual who has a Conflict of Interest shall disclose the nature and extent of the conflict at the Committee and/or Council meeting. The disclosure shall be made when the conflict first becomes known to the Individual, whether or not the transaction or matter in question had been concluded.
- 2 If the Individual is in doubt as to whether or not s/he is in Conflict of Interest, s/he may request the advice of the Council or Senior FNFN Administration Manager.
- 3 After declaring the Conflict of Interest, the Individual shall leave the meeting where the matter is being considered and shall not be counted in the quorum nor participate in the discussion or vote on the matter in question.
- 4 The meeting notes shall reflect the Individual's disclosure under #1 of this section and note the Individual's absence from the meeting when the circumstances in which the Individual has a Conflict of Interest was being discussed or voted on.

The Individual shall not influence or attempt to influence in any way before, during or after a Council meeting, any discussion or vote on any decision respecting the circumstances in which the Council Member has a Conflict of Interest.

PART 7 (5) - PROCEDURE FOR UNDISCLOSED CONFLICT OF INTEREST

Step 1. If a FNFN member has reason to believe that a Council / Committee Member has a Conflict of Interest or possible Conflict of Interest in respect of a matter before the Council/ Committee, the FNFN member may request clarification of the circumstances at a Council meeting.

Step 2. If, as a result of a clarification discussion under Step 1, the Individual is alleged to have a Conflict of Interest or an apparent Conflict of Interest and does not acknowledge the Conflict of Interest or apparent Conflict of Interest and take the required actions, the Council/ Committee shall determine whether the Individual has a Conflict of Interest or an apparent Conflict of Interest.

Step 3. The meeting notes of the Council / Committee meeting shall record any determination made by the Council under subsection (2).

If the Council / Committee determines under Step 2 that the Individual has a Conflict of Interest or an apparent Conflict of Interest, the Individual shall comply with Part Six.

PART 7 (6) - PROCEDURE WHERE A CONFLICT OF INTEREST ARISES

Step 1. After declaring the Conflict of Interest, the Individual shall not participate in the discussion or vote on the matter in question, and shall not be counted in quorum.

Step 2. Where no quorum of Council can be established at a meeting where the Conflict of Interest is to be

considered, the matter shall be brought before the next Council meeting for consideration.

Step 3. If a quorum of Council can never be established because of conflicts of interest, the matter shall be brought before a Special General Meeting called to consider the transaction or matter in question.

Notice of the Special General Meeting where the Conflict of Interest will be considered shall be given the Membership at least twenty (20) days before the meeting and shall include:

- (a) A summary of the transaction and the Conflict of Interest involved;
- (b) A statement that there will be a vote by secret ballot of the Electors present at the Special General Meeting to decide whether or not to approve the transaction; and
- (c) The date, time, and place of the Special General Meeting specifying the time period during which voting will take place.
- (d) There must be a minimum number of 25 electors present.
- (e) In the event that the minimum number is not met, notice will be given that another special meeting shall be held at which time the decision will be made by the simple majority of those in attendance. The notice will specify that a decision will be made by a simple majority vote of those in attendance.

Notice of such meeting will be made as per the following requirements:

- a. Publication of a notice in the FNFN newsletter distributed to Electors at the last address filed with or known to the FNFN Administration, or by separate written notice distributed to Electors at the last address filed with or known to the FNFN Administrative Officer; and
- b. Posting of the notice in public areas of the FNFN Community and town of FN; and
- c. All FNFN social media sites.

At the Special General Meeting, Council or its designate shall disclose the transaction of matter in question giving rise to a Conflict of Interest or the appearance of Conflict of Interest, and the Individual involved shall answer questions from the Electors present.

Upon completion of the discussion on the transaction, the Electors, excluding immediate family members of the Individual in a Conflict of Interest, shall vote by secret ballot on whether to approve the transaction.

The transaction shall be deemed approved if a Majority of Electors voted at the Special General Meeting approves the transaction.

The decision at the Special General Meeting shall be recorded in the meeting notes.

PART 7 (7) - CONSEQUENCES OF BREACH

In addition to any other penalty, the Individual shall be personally liable to FNFN for any personal or business benefit the Individual or immediate family received resulting from a violation of a Conflict of Interest situation.

Specifically, if the Individual breached the Conflict of Interest Rules, the following actions may be taken and such action will be determined by Tribunal:

- (a) an officer or employee may be disciplined, including dismissal;
- (b) a contractor's contract may be terminated;

- (c) the appointment of a member of a committee may be revoked;
- (d) the person shall be removed from the Committee; and
- (e) Their future involvement with Committees may be curtailed

The FNFN may use any legal means available to it to remedy the situation. Restitution will be required if the FNFN has suffered harm

PART 7 (8) - APPEAL

Decisions or orders made under these Rules may be appealed to the FNFN Tribunal. The Tribunal will be made up of Council member, a FNFN elder, a FNFN youth. No member of the Tribunal will be an Immediate family member as defined in this Code. In the event that no one can be found that meets this criterion, members from other BC Treaty 8 First Nations will make up the Tribunal.

PART 7 (CONT.): FINANCIAL MANAGEMENT

This section applies only to financial matters related to Fort Nelson First Nation reserve Land.

Council will implement or cause to be implemented a system of financial planning and financial administration for the management of FNFN moneys through which Council, FNFN employees and other persons who manage moneys in relation to FNFN Lands are accountable to the Members.

1. Adoption of Budget

The Council shall, by resolution, adopt a land management budget for that fiscal year and may, if the Council deems it necessary in the course of the fiscal year, adopt supplementary budgets for that fiscal year.

1.1 PROCEDURE

- A. After adopting a land management budget or supplementary budget, Council will as soon as practicable present the budget or supplementary budget to the Members at a community meeting; and
- B. After adoption of the land management budget, the Council shall, without undue delay, make a copy of the consolidated land management budget available at the FNFN administrative office for inspection by Members during normal business hours of the FNFN.

1.2 If No Budget

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.

1.3 Other Laws and Policies

Council may enact such further Laws or adopt such further policies or rules as may be necessary respecting the preparation and implementation of land management budgets under this section.

1.4 Expenditures

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

2. FINANCIAL RECORDS

- 2.1 The FNFN will keep financial records in accordance with the Canadian Acceptable Accounting Principles.

Preparation of Financial Statement

- 2.2 Within ninety days after the end of each fiscal year, Council will have prepared 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 fair and thorough presentation of the financial position of the FNFN in relation to FNFN Land.

Consolidated Accounts

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

Establishment of Bank Accounts

- 2.4 Council will maintain one or more financial accounts in a financial institution that is a member institute to which the Canada Deposit Insurance Corporation has a duty to insure deposits pursuant to the Canada Deposit Insurance Corporation Act, R.S.C. 1985, c. C-3, as amended, and will deposit in those accounts:
- (a) Payments received from Canada for the management and administration of FNFN reserve lands pursuant to the Individual Agreement or otherwise;
 - (b) moneys received by the FNFN from the grant or disposition of interests or licenses in FNFN Land;
 - (c) all fees, fines, charges and levies collected under this Land Code or a Land Law or Land Resolution;
 - (d) all capital and revenue moneys received from Canada from the grant or disposition of any interests and licenses in FNFN Land pursuant to the Individual Agreement; and
 - (e) other funds received by the FNFN from revenues derived from FNFN reserve Land.

Signing Officers

- 2.5 Council will authorize **three** departments: Council, the Land Management Committee and Senior

Administration, to sign cheques and other bills of exchange or transfer drawn on the accounts referred to in clause 2.4.

Two Signatures

- 2.6 A cheque or other bill of exchange or transfer drawn on an account referred to in clause 2.4 must be signed by the member of Council and either of the two other individuals authorized under clause 2.5.

Fiscal Year

- 2.7 The fiscal year of the FNFN will begin on April 1 of each year and end on March 31 of the following year.

Other Laws and Policies

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

3. AUDIT

Appointment of auditor

- 3.1 For each fiscal year, Council will appoint a duly accredited auditor to audit the financial records under this Part.
- 3.2 Within 30 days after the end of each fiscal year, the FNFN shall have prepared and provided to the auditor financial statements in comparative form in accordance with Canadian Acceptable Accounting Principles or in accordance with disclosed basis of accounting, regarding the land related financial records of the FNFN, containing at a minimum, the following:
- (a) A balance sheet;
 - (b) A statement of revenues and expenditures and a comparison of these with amounts stated in the land management budget and any supplementary budgets; and
 - (c) Any other information necessary for a fair presentation of the financial position of the FNFN.
- 3.3 The accounting and auditing requirements of the Land Code may be done together with, and consolidated with, the other accounts of the FNFN.

Holding Office

- 3.4 An auditor will hold office until reappointed or replaced.

Vacancy in Office

- 3.5 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 and shall fix the auditor's remuneration.
- 3.6 The auditor's remuneration shall be paid by FNFN out of the payments to be received from Canada under the Individual Agreement or out of the FNFN's general revenues.

Remuneration

- 3.7 An appointment under clause 3.1 will contain a statement approving the remuneration to be paid to the auditor.

Duty of Auditor

- 3.8 The auditor shall, within 120 days after the end of the FNFN's fiscal year, audit the financial statements regarding the land related financial records of the FNFN, in accordance with Canadian generally accepted auditing standards and prepare and submit to the Council, a written report on such financial statements, stating whether, in the opinion of the auditor, the financial statements presents fairly the financial position of the FNFN Lands related financial transactions.

Access to Records

- 3.9 In order to prepare the report on the FNFN's financial statement, the auditor may at all reasonable times inspect any financial records of the FNFN and the financial records of any person or body who is authorized to administer money related to FNFN Land.

Presentation of Auditor's Report

- 3.10 Council will present the auditor's report to the Members at a Community Meeting.

Nothing precludes an auditor appointed for other FNFN audits from being appointed under clause 3.1.

4. ANNUAL REPORT

- 4.1 Council will, within thirty days of receiving an audit report under clause 3.8, prepare and table with the Land Management Committee an annual report on FNFN Land management that includes:
- (a) an annual review of FNFN Land management activities;
 - (b) a copy and explanation of the audit report as it applies to FNFN Lands; and
 - (c) such other matters as may be determined by Council or requested by the Land Management Committee.

5. ACCESS TO FINANCIAL INFORMATION

- 5.1 A member of Council, an Eligible Voter or any person authorized by the Council, may, with prior written notice, during the normal business hours of the FNFN, inspect the land related books of account and land related financial records of the FNFN.
- 5.2 A person is guilty of an offense if the person:
- (a) Impedes or obstructs anyone from exercising their right to inspect the books or account or financial records of the FNFN; or
 - (b) Has control of the books or account or financial records of the FNFN and fails to give all reasonable assistance to any one exercising their right to inspect those books or records.

PART 8 DISPUTE RESOLUTION

Disputes

The parties shall use best efforts to prevent disputes from arising and shall consider the use of dispute resolution processes at the earliest possible stage of any conflict.

Disputes that arose before the Land Code takes effect could also be referred to this part.

If a Member, or a non-Member with an Interest in Fort Nelson First Nation Land, has a dispute with respect to a decision of Council or the Lands Committee, the person shall first attempt to resolve that dispute with Council or the Lands Committee, before referring the dispute to the Panel.

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

Any settlement reached through dispute resolution shall not be legally binding until it has been reduced to writing and properly executed by, or on behalf of, the parties.

A contractual agreement made under this Land Code may establish that the dispute resolution outlined in this Land Code and its Land laws may be mandatory or may to some degree prescribe for alternate dispute resolution processes if there is consensual agreement by the parties involved in that agreement. The dispute resolution clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract.

The parties to a dispute to which these rules apply may to some degree, modify, vary or amend these rules by consensual agreement in writing, and notify the Panel in writing.

For greater certainty, 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.

For greater certainty, nothing in this part shall be construed to prevent a party to a dispute from challenging the validity of a Land law, but such a challenge may be heard only in a court of competent jurisdiction.

Processes

Fort Nelson First Nation intends that a dispute in relation to Fort Nelson First Nation Land, except as otherwise provided, may progress through the following stages:

- a) facilitated discussions;
- b) negotiation;

- c) mediation; and
- d) final arbitration by the Dispute Resolution Panel.

A person who wishes to resolve a dispute with another person or Fort Nelson First Nation in relation to the use or occupation of Fort Nelson First Nation Land may file a written notice of dispute setting out:

- (a) the nature of the dispute;
- (b) a statement outlining the facts and supporting arguments of the dispute claim; and
- (c) the relief that is sought.

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

- a) the parties reach an agreement;
- b) one of the parties refuses to continue with facilitated discussions, negotiations or mediation;
- c) the mediator assesses that nothing meaningful is to be gained in continuing the process; or
- d) upon the request of both parties.

A notice of termination is required when further facilitated discussions, negotiations or mediation shall not resolve the dispute. The dispute may progress to the next stage of the dispute resolution process or to final arbitration.

Dispute resolution is not available for disputes in relation to:

- a) administration or distribution of an estate;
- b) decisions relating to housing allocations;
- c) decisions of Council to grant or refuse to grant an Interest or Licence in Fort Nelson First Nation Land to a non-Member;
- d) decisions on expropriation under this Land Code: and
- e) prosecution or conviction of an offence under a Land law or under criminal law.

All persons involved in a dispute under this part shall be:

- a) treated fairly;
- b) given a full opportunity to present their case; and

c) given reasons for a decision made under this part.

Council may prescribe such laws, resolutions, rules, policies, procedures, forms and reasonable fees not inconsistent with this Land Code, as may be necessary to give effect to this part including:

- (1) facilitated discussions, negotiations, mediations and arbitrations;
- (2) terms of office for panelists;
- (3) remuneration of facilitators, mediators, arbitrators, panelists, expert advisors, professionals or other persons retained to assist in the resolution of disputes;
- (4) code of conduct for facilitators, mediators, arbitrators, panelists, expert advisors, professionals or other persons retained to assist in the resolution of disputes;
- (5) disclosure and confidentiality;
- (6) imposition of time limitations for submitting a notice of dispute and referring a matter or dispute to the Panel;
- (7) implementing recommendations of the Panel; and
- (8) any other matter necessary to give effect to this part.

By participating in this dispute resolution process, the parties agree that the facilitators, mediators, arbitrators and panelists shall not be liable to the parties for any act or omission in connection with the services provided by them in, or in relation to, the dispute resolution processes, unless the act or omission is fraudulent or involves willful misconduct.

Roster Panel Established

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

Notwithstanding the general rules of conflict of interest in the Land Code, no Council member, or employee of Fort Nelson First Nation or person already serving on another board, body, or committee related to Fort Nelson First Nation Land shall sit on the Roster Panel.

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

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

Impartiality of the Dispute Resolution Panel

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

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

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

The Roster Panel shall establish rules of conduct for the parties to a dispute.

Arbitration by the Dispute Resolution Panel

Applications for resolution by the Panel shall be submitted to the Lands Department.

Disputes referred to the Roster Panel are to be heard by three (3) panelists chosen as follows:

- a. one (1) panelist is to be chosen by each of the two (2) parties to the dispute;
- b. one (1) panelist, who is to be the chairperson, shall be chosen by the rest of the Panel; and
- c. in the case of situations not adequately covered by clause (a) or (b), all three (3) panelists shall to be chosen by the Roster Panel as a whole.

The Panel is hereby established with jurisdiction to resolve disputes in relation to Fort Nelson First Nation Land.

For greater certainty, the Panel shall not hear disputes in respect of matters that are not subject to dispute resolution under this Land Code.

Powers of the Dispute Resolution Panel

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;
- d. refer the matter or dispute back for a new decision; or
- e. make an order to give effect to its decision, including any necessary order for the survey of an Interest in Fort Nelson First Nation Land, the registration of an Interest in Fort Nelson First Nation Land, and the allocation of the costs of any incidental measures to be taken to give effect to such an order.

In addition to making a determination in respect to a particular dispute, the Panel may recommend to Council:

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

The 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 Fort Nelson First Nation Land.

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

Decisions of the Panel shall be in writing, signed by the person chairing the Panel or by an officer designated by the Panel to do so. Where requested, the written decision shall be provided to a party to the proceeding within fourteen (14) days after the date of the decision.

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

PART 9 OTHER MATTERS (Liability / Offences / Commencement)

Liability

Liability Coverage

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

Extent of coverage

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

Offences

Application of the Criminal Code

Unless some other procedure is provided for by a Name First Nation Land law, the summary conviction procedures of part XXVII of the Criminal Code, as amended from time to time, apply to offences under this Land Code or under a First Nation Land law.

Fines & Imprisonment

Unless some other procedure is provided for by a Name First Nation Land law, any person who commits an offence under this Land Code or a Fort Nelson First Nation Land law is liable to a fine not to exceed \$5,000 and to a term of imprisonment not to exceed six months or to both fine and imprisonment, provided however, that offences related to Name First Nation environmental protection laws may carry penalties consistent with similar environmental protection laws in force in Canada.

Revisions to Land Code

Revisions

A ratification vote is not required for revisions made to this Land Code that do not change the substance of this Land Code. Council may, from time to time, arrange and revise this Land Code. Revisions include:

- a. an amendment of the description of Name First Nation Land subject to this Land Code and Individual Agreement;
- b. a reference in this Land Code to a clause in another act or document that was amended and resulted in clause renumbering;
- c. a reference in this Land Code to an Act or parts thereof that have expired, have been repealed or suspended;
- d. changes in this Land Code as are required to reconcile seeming inconsistencies with other acts;
- e. minor improvements in the language as may be required to bring out more clearly the intention of the Name First Nation without changing the substance of this Land Code; and
- f. correct editing, grammatical or typographical errors.

Commencement

Preconditions

This Land Code shall take effect if the community approves this Land Code and the Individual Agreement with Canada and this Land Code has been certified by the verifier pursuant to the Framework Agreement.

Commencement date

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