

Bingwi Neyaashi Anishinaabek

LAND CODE

January 31, 2014

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PREAMBLE

Whereas *Bingwi Neyaashi Anishinaabek* has a profound relationship with the Land;

Whereas on April 13, 2012, *Bingwi Neyaashi Anishinaabek* entered into the *Framework Agreement on First Nation Land Management* with Canada dated February 12, 1996, as amended, and which was ratified on behalf of the Government of Canada by the *First Nations Land Management Act*.

And Whereas *Bingwi Neyaashi Anishinaabek* wishes to manage its Land and resources, rather than having its Land and resources managed on its behalf under the *Indian Act*.

**NOW THEREFORE, THIS LAND CODE IS HEREBY ENACTED AS THE
FUNDAMENTAL LAND LAW OF *BINGWI NEYAASHI ANISHINAABEK*.**

PART 1
PRELIMINARY MATTERS

1. Title

Title

1.1 The title of this enactment is the *Bingwi Neyaashi Anishinaabek Land Code*.

2. Interpretation

Definitions

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

“Abrogate” means to abolish by authoritative action, annul;

“BNA” means *Bingwi Neyaashi Anishinaabek*;

“BNA Land” or “Land” means any portion of a reserve that is subject to this *Land Code* under section 5;

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

“Common-Law Partnership” means the relationship between two (2) persons who are cohabiting in a conjugal relationship;

“Community Land” means any BNA Land in which all Members have a common interest and which have not been allocated;

“Council” means the active Chief and Council of BNA;

“Derogate” means to take away a part so as to impair, detract;

“*Director of Lands & Resources*” and “*Lands Manager*” are to be read as synonymous and are intended to represent the delegate of the Lands Committee. If this position is vacant, it will be replaced with a delegate as chosen by the Lands Committee.

“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 or before the day of the vote;

“Extended Family”, in respect of a person, means the person’s grandparent, uncle, aunt, first degree cousin, grandchild and/or any other relation or relationship that Council may add by law;

“First Nations Land Register” means the register maintained by Aboriginal Affairs and Northern Development Canada under the *Framework Agreement*;

“*Framework Agreement*” means the *Framework Agreement on First Nation Land Management* entered into between the Minister of Indian Affairs and Northern Development and the Chiefs of fourteen First Nations on February 12, 1996, as amended to include BNA on April 13, 2012;

“Immediate Relatives”, in respect of a person, means the person’s parent, sister, brother, child, or Spouse;

“Individual Agreement” means the Individual Agreement made between BNA and Canada in accordance with section 6.1 of the *Framework Agreement*, as amended from time to time;

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

“Lands Committee” means the Lands Committee established under this *Land Code*;

“Meeting of Members” means a meeting under section 15 to which the Members are invited to attend;

“Member” means a person whose name appears or is entitled to appear on the BNA Band Membership List;

“Panel” means the Dispute Resolution Panel established under section 43;

“Ratification Vote” means a vote of Eligible Voters under section 16;

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

“Riparian Rights” means the legal rights of owners of land bordering on a river or other body of water. Also, law that pertains to use of the water for that land;

“Spouse” means a person who is married to another, whether by a traditional customary, religious or civil ceremony, and includes a Spouse by Common-Law Partnership.

2.2 For greater certainty, if context requires, BNA laws, policies and regulations may prescribe different definitions than is provided in this *Land Code*.

Paramouncy

2.3 If there is an inconsistency between this *Land Code* and any other enactment of BNA, this *Land Code* prevails to the extent of the inconsistency.

Culture and traditions

2.4 The structures, organizations and procedures established by or under its *Land Code* shall be interpreted in accordance with the culture, traditions and customs of BNA, unless otherwise provided.

Language

2.5 The language of BNA 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

2.6 This *Land Code* does not Abrogate or Derogate from any Aboriginal rights or freedoms that pertain to BNA or its Members.

Fair Interpretation

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

Special
Relationship

2.8 This *Land Code* does not Abrogate the special relationship between Canada and BNA and its Members.

Lands and interests
affected

2.9 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 BNA by Canada listed in the Individual Agreement.

3. Authority to Govern

Origin of authority

3.1 The traditional teachings of the BNA speak of the obligation of the people of BNA to care for and respect the Land and the magnificent wonders of Nature created on the Land. By enacting this *Land Code*, BNA is renewing this special responsibility.

Flow of authority

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

4. Purpose

Purpose

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

Ratification

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

5. Description of BNA Land

First Nation Land

5.1 The BNA Land that is subject to this *Land Code* is the Indian Reserve known as Sand Point First Nation Reserve.

5.2 BNA Land includes all reserve lands listed in the Individual Agreement and such other Land as may be described in the Individual Agreement as amended from time-to-time and more particularly described in Appendix “A”.

Additional Lands

5.3 Council may receive Community input in accordance with section 15, prior to addition of reserve lands to the *Land Code*.

5.4 For greater certainty, a community approval or Ratification Vote is not required for amending the description of reserve land in the *Land Code* and Individual Agreement, as amended from time-to-time.

Land Exchange

5.5 For greater certainty, section 5.3 does not apply to Land acquired by land exchange, which is governed under Part 4 of this *Land Code*.

Inclusion of Land or Interest

5.6 Council may by enacting a Land Law declare the Land or interest to be subject to this *Land Code*.

PART 2

FIRST NATION LEGISLATION

6. Law-Making Powers

Council may make Land Laws

- 6.1 The Council may, in accordance with this *Land Code*, make Land Laws respecting the development, conservation, protection, management, use and possession of BNA Land, and interests and licenses in relation to those Lands. This power includes the power to make Land Laws in relation to any matter necessary or ancillary to the making of Land Laws in relation to BNA Land.

Examples of Land Laws

- 6.2 The following examples illustrate some of the Land Laws that may be enacted:
- (a) Land Laws on the regulation, control and prohibition of zoning, land use, subdivision control and land development;
 - (b) Land Laws on the creation, regulation and prohibition of interests and licenses in relation to BNA Land;
 - (c) Land Laws on environmental assessment and protection;
 - (d) Land Laws on the provision of local services in relation to BNA Land and the imposition of equitable user charges; and
 - (e) Land Laws on the provision of services for the resolution, outside the courts, of disputes in relation to BNA Land.
- 6.3 For greater certainty, in addition to Land Laws, Council may also develop the following instruments including, but not limited to, a regulation, a standard, a code, and a policy.

7. Law-Making Procedure

Introduction of Land Laws

- 7.1 A proposed Land Law may be introduced at a duly convened meeting of the Council by:
- (a) the Chief or a Councilor; or
 - (b) any Member of the First Nation eligible to vote.

Content of
Land Law Proposal

- 7.2 A Land Law Proposal shall contain a statement of the purposes and benefits to the First Nation of the proposed Land Law.

7.3 Upon receipt of a Land Law proposal, Council may:

- (a) table the Land Law proposal for further review or for enactment;
- (b) request that the proposer provide further information or attend before a future meeting of Council to speak to the Land Law proposal;
- (c) undertake or direct the preparation of a draft Land Law concerning matters raised in the Land Law proposal, for consideration by Council; or
- (d) decline the Land Law proposal.

Tabling and posting
of proposed Land Laws

7.4 Before a proposed Land Law may be enacted by the Council, it must first be:

- (a) presented to the Lands Committee, where it will be reviewed to determine the action required. The Lands Committee will reply to the person tabling the proposed Land Law within five (5) business days to acknowledge receipt;
- (b) the Lands Committee shall meet within fifteen (15) days after receipt of a proposed Land Law to review the proposed Land Law and draft a proposed solution or draft Land Law for consideration at the next scheduled Meeting of Members to review Land issues;
- (c) the Meetings of Members to review potential Land Laws shall be held approximately every three (3) months, but no less than four (4) times per year, or in the case of urgent matters, more regularly at the discretion of Council;
- (d) the proposed Land Law must be posted in the band administration offices, on the First Nation website and included in monthly newsletters prepared by the Lands Committee;
- (e) except for Land Laws enacted under section 7.5 and 42.5, there shall be a community vote on every Land Law proposed and presented to the Members by the Lands Committee. This vote will take place in accordance with section 13.3;
- (f) Council shall meet to review and vote on any Land Law passed at a Meeting of Members at the next duly convened meeting of Council;
- (g) if Council rejects the decision of the Members, it must make a formal presentation at the next Meeting of Members explaining their position and call for a new community vote;

- (h) if the Land Law passes the second time, Council may either choose to pass the Land Law or engage the dispute resolution process described in section 44; and
- (i) once passed, all new Land Laws must be posted in public places on BNA Land at least twenty-one (21) days before the law is to be enacted.

Urgent matters

- 7.5 The Council may enact a Land Law without the preliminary steps required under section 7.4, if the Council is of the opinion that the Land Law is needed urgently to protect BNA Land or the Members, but the Land Law expires one hundred and twenty (120) days after its enactment, unless re-enacted in accordance with section 7.4.

Approval of Land Law by Council

- 7.6 A Land Law is enacted if it is approved by a majority of the Council at an authorized Council meeting.

Certification of Land Laws

- 7.7 The original copy of any Land Law or Resolution concerning BNA Land shall be signed by a quorum of the Council present at the duly convened meeting at which it was enacted.

8. Publication of Land Laws

Publication

- 8.1 All Land Laws will be filed with the Lands Manager, who will maintain a database and library of all Land Laws on behalf of the BNA Lands Committee and Council.
- 8.2 All Land Laws will be filed complete with notes containing reference material and information regarding its passage, including; who proposed the Land Law, the date of the vote, date of enactment and any reference or supporting material.

Posting Land Laws

- 8.3 Within seven (7) days after a law has been enacted, the Council shall post a copy of the Land Law in the administrative offices of BNA.

Registry of Land Laws

- 8.4 The Council shall cause to be kept, at the administrative offices of BNA, a register of the original copy of all Land Laws and Resolutions, including Land Laws and Resolutions that have been repealed or are no longer in force.

Copies for any Person

- 8.5 Any person may obtain a paper copy of a Land Law or Resolution on payment of a reasonable fee set by the Council. Electronic copies will be provided at no charge on the BNA website.

9. Commencement of Land Laws

Land Laws taking effect

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

10. Enforcement of Land Laws

Enforceability of Land Laws

- 10.1 To enforce its *Land Code* and its Land Laws, BNA shall have the power to:
- (a) establish offences that are punishable on summary conviction;
 - (b) provide for fines, imprisonment, restitution, community service, and alternate means for achieving compliance; and
 - (c) establish comprehensive enforcement procedures consistent with federal law, including inspections, searches, seizures and compulsory sampling, testing and the production of information.

PART 3

COMMUNITY INVOLVEMENT

11. Participation of Members

Participation of Members

- 11.1 Every Member is entitled to participate in the community consultation processes set out in Part 3 of this *Land Code*.

12. Rights of Eligible Voters

Rights of Eligible Voters

- 12.1 Each Eligible Voter is entitled to participate in the community approval processes set out in Part 3 of this *Land Code*.

13. Community Input

Prior Meeting of Members

- 13.1 The Council shall convene a Meeting of Members to receive their input prior to the introduction of all Land Laws, except for Land Laws enacted under section 7.5 and 42.5.
- 13.2 Council shall not pass any Land Laws until the process defined in section 13.3 is followed.

Process to Implement Land Laws

- 13.3 The Lands Committee shall operate within the community process to develop and implement the Land Laws referred to in section 13.1:
- (a) the Lands staff will receive all proposed Land Laws and acknowledge receipt to the Member proposing the Land Law within five (5) business days;
 - (b) the Lands staff will review the proposed Land Law and collect all necessary background information;
 - (c) the Lands staff will then distribute the proposed Land Law, complete with background information, to the Lands Committee members, who will meet to review the proposed Land Law within fifteen (15) days upon receipt;
 - (d) the Lands Committee will then prepare a formal response to the Member proposing the Land Law, including any reference and background

material and respond to the Member proposing the Land Law within thirty (30) days from the date the proposed Land Law was received by the Lands staff;

- (e) the Lands Committee may secure any specialist resources and guidance necessary to provide a complete review of the proposed Land Law. First preference will be given to local specialists and resources;
- (f) the proposed Land Law will then be tabled at the next Meeting of Members for review and consideration by the Members; and
- (g) the Members will then vote on the proposed Land Law in accordance with the procedure in section 7.4.

14. Community Approval

Community approval

14.1 Community approval must be obtained for the following:

- (a) any Land Law proposed under this *Land Code*;
- (b) any voluntary exchange of BNA Land;
- (c) interim spousal property laws; and
- (d) any other matter, Land Law or class of law, that Council, by Resolution, declares to be subject to this section.

Method of Voting

14.2 Community approval may be obtained by various methods, including but not limited to:

- (a) secret ballot;
- (b) show of hands;
- (c) mail-in ballot; or
- (d) any other method outlined in voting policies.

14.3 For greater certainty, Council may determine that the Community Approval vote may be achieved by calling for a Community Meeting of Members, by calling for a vote and establishing voting days and polling locations, by calling for a mail-in ballot community vote, or any other method outlined in section 14.2.

Quorum

14.4 The quorum for Community Approvals under this *Land Code* is fifteen percent (15%) of Eligible Voters.

Voting

- 14.5 For Community Approvals, decisions may be made by a majority vote of fifty percent plus one (50% + 1) of the Eligible Voters casting ballots, provided that there is a quorum of Eligible Voters participating in the vote.

15. Procedure at a Meeting of Members

Voting

- 15.1 Decisions at a Meeting of Members are to be made by a majority vote of the Eligible Voters present at the meeting.

Notice of meeting

- 15.2 The Council shall give written notice of the Meeting of Members that:
- (a) specifies the date, time and place of the meeting; and
 - (b) contains a brief description of the matters to be discussed and decided on at the meeting;
 - (c) the name and telephone number of a contact person;
 - (d) a feedback form which any person entitled to participate may submit to the Lands Committee for review, and forwarded to Council in lieu of or in addition to attending the meeting; or
 - (e) feedback by such additional methods, if any, as Council and the Lands Committee may consider appropriate.

Manner of notice

- 15.3 The notice of a Meeting of Members must be given to the Members by:
- (a) posting the notice in a public place at least twenty-one (21) days before the meeting;
 - (b) mailing the notice to Members;
 - (c) posting a notice on the BNA website;
 - (d) publishing the notice in the community newsletter at least ten (10) working days before the meeting; and
 - (e) such additional method as the Council may consider appropriate in the circumstances.

Who may attend

15.4 All Members have a right to attend a Meeting of Members, but other persons may attend with the permission of the Council.

Quorum

15.5 The quorum for a Meeting of Members under this *Land Code* is fifteen percent (15%) of eligible voters.¹

Other meetings

15.6 The Council may schedule more than one Community Meeting of Members to discuss and decide on a matter that requires a Community Meeting of Members without the time requirements under section 15.3.

Other Land Laws

15.7 For greater certainty, the Council may make Land Laws respecting Community Meeting of Members.

16. Ratification Votes

Community approval
By Ratification Vote

16.1 Community approval by a Ratification Vote must be obtained for an amendment to this *Land Code*.

Exceptions

16.2 A Community Approval or Ratification Vote is not required for:

- (a) an amendment to section 5 of this *Land Code*;
- (b) minor administrative revisions to this *Land Code*; and
- (c) an amendment to, or renewal of, the Individual Agreement.

Other Matters

16.3 For greater certainty, Council may, by Resolution, declare a matter, a Land Law or a class of law, to be subject to this section.

Ratification process

16.4 Any Ratification Vote required under this *Land Code* shall be conducted in substantially the same manner as the BNA Community Ratification Process, which was used to ratify this *Land Code*.

No verifier

¹ The quorum of members required includes both on and off-reserve members.

16.5 A verifier is not required in any Ratification Vote.

Minimum
Requirements for
Approval

16.6 A matter shall be considered approved at a Ratification Vote if a majority of the Registered Voters cast a vote in favour of the matter.

Quorum

16.7 In order to obtain a quorum for a community approval by Ratification Vote under this *Land Code*, at least twenty-five percent plus one (25% + 1) of Eligible Voters must register.

Proposed Law Rejected
By Majority Vote

16.8 A matter shall be considered not approved at a Ratification Vote if a majority of the registered Eligible Voters cast a vote in opposition of the matter.

Other Laws

16.9 For greater certainty, the Council may make Land Laws respecting Ratification Votes.

PART 4

PROTECTION OF LAND

17. Expropriation

Acquisition by
Mutual Agreement

- 17.1 The right of BNA to expropriate can only be exercised after a good faith effort to acquire, by mutual agreement, the interest or licence in BNA Land.

Rights and interest
that may be
expropriated

- 17.2 An interest or licence in BNA Land, or in any building or other structure on those Lands, may only be expropriated by BNA in accordance with the *Framework Agreement* and any Land Law enacted for the purpose of establishing the rights and procedures for community expropriations.

Community purposes

- 17.3 A community expropriation may only be made for a necessary community purpose or works of BNA, including but not limited to: a fire hall, sewage or water treatment facility, community center, public works, roads, schools, daycare facility, hospitals, health-care facility, and retirement home, and any other community purpose deemed necessary by the Council of BNA.

Expropriation laws

- 17.4 Before proceeding to make any community expropriations in accordance with this *Land Code*, the 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; and
 - (b) transfer of the interest or licence.

Member Notification

- 17.5 In the case of an expropriation of a Member's interest in BNA Land, the affected Member or Members must receive notification of the expropriation within a reasonable time prior to the release of the public report referred to in section 17.6.

Public report

- 17.6 Before BNA decides to expropriate an interest or licence, it shall make a public report on the reasons justifying the expropriation.

Rights that may not
be expropriated

- 17.7 An interest of Canada or the province pursuant to section 17.6 of the *Framework Agreement* is not subject to expropriation by BNA.

Compensation for
rights and interests

- 17.8 BNA shall, in accordance with its Land Laws and the *Framework Agreement*, pay fair and reasonable compensation to the holders of the interest or licence being expropriated.

Compensation
calculations

- 17.9 BNA shall calculate the total value of the compensation under this section based on the heads of compensation set out in the Expropriation Act (Canada).

Market value

- 17.10 The “market value” of an expropriated interest or licence is equal to the amount that would have been paid for the interest or licence if it had been sold on the reserve by a willing seller to a willing buyer under no duress.

Neutral evaluation

- 17.11 A dispute concerning the right of BNA to expropriate an interest or licence in BNA Lands shall be reviewed by neutral evaluation, in the same manner as provided in Part IX of the *Framework Agreement*, and the sixty (60) day period referred to in clause 32.6 of the *Framework Agreement* shall be applied, as appropriate in the circumstance, by the neutral evaluator.

Arbitration to resolve
Disputes

- 17.12 The resolution of the following disputes shall be determined by arbitration, in the same manner as provided in Part IX of the *Framework Agreement*:
- (a) disputes concerning the right of a person who claims an interest or licence in expropriated BNA Lands to compensation; and
 - (b) disputes concerning the amount of the compensation to be paid to the person who held an interest or licence in expropriated BNA Lands.

18. Heritage Sites

Community Input
On Development

- 18.1 No development shall be allowed on any site designated as a heritage site under the land use plan, unless the community is consulted on the development plan, provided however that no development shall be permitted on any site designated by Land Law as a permanently protected site.

Community Approval for
Amendment to Land Use Plan

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

19. Voluntary Land Exchanges and Protections

Conditions for a land exchange

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

No effect

19.2 A land exchange under this Section is not in effect unless it receives community approval at a community Meeting of Members.

Land to be received

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

- (a) it must be equal to or greater than the area of the BNA Land to be exchanged;
- (b) it must be at least comparable to the appraised value of the BNA Land; and
- (c) it must receive reserve status and become subject to this *Land Code*.

Negotiators

19.4 The persons or persons who will have authority to negotiate a land exchange agreement on behalf of BNA must be designated by Resolution.

Additional land

19.5 BNA may negotiate to receive other compensation, such as money or one or more other parcels of land, in addition to the parcel referred to in section 19.3 which is intended to become a reserve. Such other parcels of land may be held by BNA in fee simple or some other manner.

Federal Consent

19.6 Before BNA concludes a land exchange agreement, it must 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 the Council may specify by Resolution or as provided by an agreement with Canada; and
- (b) consents to the manner and form of the exchange as set out in the exchange agreement.

Community notice

19.7 Once negotiations on the land exchange agreement are concluded, the Council shall provide the following information to Eligible Voters at least twenty-one (21) days before the vote:

- (a) a description of the BNA 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 in section 19.3 have been met;
- (e) a copy or summary of the exchange agreement; and
- (f) a copy of the consent referred to in section 19.6.

Process of land
exchange

19.8 The land exchange agreement shall provide that:

- (a) the other party to the exchange must transfer to Canada the title to the land which is to be set apart as a reserve;
- (b) the Council must pass a Resolution authorizing Canada to transfer title to BNA 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 Nations Land 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 provision has been made for such clearance or remediation at no cost to BNA, and with full indemnification to BNA.

PART 5
ACCOUNTABILITY

20. Conflict of Interest

Application

- 20.1 The rules in section 20 apply to the following persons:
- (a) each member of Council who is dealing with any matter before Council pertaining to the management or administration of BNA Land;
 - (b) each person who is an employee of BNA dealing with any matter that is related to BNA Land; and
 - (c) each person who is a member of a board, committee or other body of BNA dealing with any matter that is related to BNA Land.

Conflict of Interest

- 20.2 A person to whom this Part applies has a conflict of interest when the person is being asked to deliberate or decide on a matter where there is the opportunity to further his or her private interest or the private interest of a member of his or her Immediate Family.
- 20.3 A person to whom this Part applies has an apparent conflict of interest if there is a reasonable perception, which a reasonably well informed person could properly have, that the person's ability to deliberate or decide on the matter must have been affected by his or her private interest or the private interest of a member of his or her Immediate Family.
- 20.4 Private interest does not include an interest that results solely from being a Member.

Conflict of Interest Prohibition

- 20.5 A person to whom this Part applies shall not exercise his or her power or carry out his or her responsibility provided for in this *Land Code* if the person has a conflict of interest or an apparent conflict of interest.

Procedure on Conflict of Interest

- 20.6 A person to whom this Part applies who has reasonable grounds to believe that he or she has a conflict of interest in a matter before Council or the Lands Committee, as the case may be, must, if present at a meeting considering the matter:
- (a) disclose the general nature of the conflict of interest; and
 - (b) physically withdraw from the meeting without voting or participating in the consideration of the matter.

- 20.7 If a person has complied with section 20.5, the minutes of the meeting must record:
- (a) the disclosure;
 - (b) the general nature of the conflict of interest disclosed; and
 - (c) the withdrawal of the person from the meeting.

Conflict of Interest in Doubt

- 20.8 If a person to whom this Part applies is in doubt whether he or she has a conflict of interest, he or she may request a decision on whether he or she is in compliance with this Part:
- (a) from Council, if the person is a member of Council; or
 - (b) from the Lands Committee, if the person is a member of the Lands Committee.
- 20.9 If a person to whom this Part applies has reasonable grounds to believe that another person (the “Subject”) to which this Part applies has a conflict of interest, the former may request a decision on whether the Subject is in compliance with this Part:
- (a) from Council, if the Subject is a member of Council; or
 - (b) from the Lands Committee, if the Subject is a member of the Lands Committee.
- 20.10 A decision of the Council or the Lands Committee, as the case may be, made pursuant to section 20.8 or 20.9 shall be final.

Failure to Establish Quorum due to Conflict

- 20.11 Where, as a result of a conflict of interest, a quorum of Council can never be established, the remaining members of the 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 Land Law or Resolution.

Other Laws

- 20.12 For greater certainty, the Council may enact Land Laws to further implement this section.

21. Financial Management

Application

- 21.1 This section applies only to financial matters relating to BNA Land.

Establishment of
Bank accounts

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

- (a) transfer payments received from Canada for the management and administration of BNA Land and resources;
- (b) moneys received by BNA from the grant or disposition of any interests or licences in BNA Land and resources;
- (c) revenues received by BNA from natural resources obtained from its Land;
- (d) all fees, fines, charges and levies collected under a Land Law or Resolution;
- (e) all capital and revenue moneys received from Canada from the grant or disposition of any interests and licences in BNA Land; and
- (f) any other Land and resources revenue received by BNA.

Fiscal year

21.3 The fiscal year of BNA begins on April 1 of each year and ends on March 31 of the following year.

Adoption of budget

21.4 The Council shall, by Resolution, prior to the beginning of each fiscal year, 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.

Procedure

21.5 After adopting the Land management budget or supplementary budget, the Council shall, without undue delay:

- (a) explain the budget or supplementary budget to the Members at an annual Meeting of Members; and
- (b) make a copy of the budget or supplementary budget available at the administrative office of BNA for inspection by Members at reasonable hours.

If no budget

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

Budget rules

21.7 The Council may make rules respecting the preparation and implementation of Land management budgets.

Expenditures

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

Financial Policy

21.9 BNA may, in accordance with this *Land Code*, adopt a financial policy to further manage moneys related to BNA Land.

21.10 A quarterly financial report will be provided to the membership at each of the quarterly Meeting of Members called to discuss *Land Code* and BNA Land management issues.

22. Financial Records

Financial records

22.1 BNA shall keep financial records related to Land in accordance with generally accepted accounting principles.

Offences

22.2 A person is guilty of an offence if the person:

- (a) impedes or obstructs anyone from exercising their right to inspect the financial records of BNA; or
- (b) has control of the books or account or financial records of BNA and fails to give all reasonable assistance to anyone exercising their right to inspect the financial records.

Preparation of financial statement

22.3 Within ninety (90) days after the end of each fiscal year, the Council on behalf of BNA shall prepare a financial statement in comparative form, containing at a minimum:

- (a) a balance sheet
- (b) a statement of revenues and expenditures and a comparison of these with the amounts stated in the land management budget and any supplementary budget; and
- (c) any other information necessary for a fair presentation of the financial position of BNA.

Consolidated Accounts, etc.

22.4 The accounting, auditing and reporting requirements of this *Land Code* may be done together with, and consolidated with, the other accounts, audits and reports of BNA.

23. Audit

Appointment of Auditor

23.1 For each fiscal year, a duly accredited auditor shall be appointed to audit the land-related financial records of BNA.

Holding Office

23.2 The auditor appointed under this Section holds office until reappointed, or replaced.

Vacancy in office

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

Remuneration

23.4 The auditor's remuneration shall be fixed by the Council.

Duty of auditor

23.5 The auditor shall prepare and submit to the Council, a report on BNA's financial statement, stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of BNA in accordance with generally accepted accounting principles applied on a basis consistent with that applied in the previous fiscal year.

Access to records

23.6 In order to prepare the report on BNA's financial statement, the auditor may at all reasonable times inspect any financial records of BNA and any person or body who administers money on behalf of BNA.

Explanation of Auditor's report

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

24. Annual Report

Publish annual report

24.1 The Council, on behalf of BNA, shall publish an annual report on Lands issues after the receipt of the audit report.

Contents

24.2 The annual report will include:

- (a) an annual review of Land management;
- (b) a copy and explanation of the audit as it applies to Land; and
- (c) any other matter as determined by the Council or Lands Committee.

25. Access to Information

Access

25.1 Any person may, during normal business hours at the main administrative office of BNA, have reasonable access to:

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

Copies for Members

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

Access to records

25.3 Any person authorized by the Council may, at any reasonable time, inspect the financial records of BNA related to BNA Land.

PART 6

LAND ADMINISTRATION

26. Land Staff

Administration

- 26.1 Council may delegate administrative authority to staff to carry out functions necessary for day-to-day administrative operations of Land and resources.

27. Lands Committee

Lands Committee
established

- 27.1 The Lands Committee is hereby established to:

- (a) assist with the development of the Land administration system;
- (b) advise the Council and its staff on matters respecting BNA Land;
- (c) recommend Land Laws, Resolutions, policies and practices respecting BNA Land to the Council;
- (d) hold regular and special Meetings of Members to discuss Land issues and make recommendations to Council on the resolution of these Land issues;
- (e) assist in the communication of Land issues between Members and the Council; and
- (f) oversee Ratification Votes, community approvals and community input meetings under this *Land Code*.

Development of Land
related rules and
procedures.

- 27.2 Within a reasonable time after this *Land Code* takes effect, the Lands Committee shall, in consultation with the community, ensure that Land Laws, rules and procedures, as may be appropriate, are developed that address the following matters:

- (a) environmental protection and assessment in relation to BNA Land;
- (b) land use planning and zoning;
- (c) matrimonial property laws; and
- (d) any other matter referred by Council.

Implementation of
Policies

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

First Lands
Committee

- 27.4 Immediately upon the coming into effect of this *Land Code*, Council shall select an interim Lands Committee to serve until an election for the Lands Committee can be held.
- 27.5 The election for the Lands Committee shall take place no more than six (6) months after the coming into effect of this *Land Code*.

Internal procedures

- 27.6 The Lands Committee may establish rules for the procedure at its meetings and generally for the conduct of its affairs, not inconsistent with those established by the Council.

28. Membership of the Lands Committee

Composition

- 28.1 The Lands Committee shall be composed of five (5) members, all of whom must be Eligible Voters.

Eligibility to be
Nominated as a
Lands Committee
Member

- 28.2 Any Eligible Voter, whether resident on or off BNA Land, is eligible for appointment or election to the Lands Committee, except for the following persons:
- (a) a person, who upon review of the Criminal Record Check provided and paid for by Council, with consultation from the Dispute Resolution Panel, is felt to be unsuitable based on the content of the criminal record check;
 - (b) any person convicted of a corrupt practice in connection with an election, including accepting a bribe, dishonesty or wrongful conduct;
 - (c) members of the Lands Committee may not be members of any other active Committee within the First Nation; and
 - (d) members of the Lands Committee may not hold a position on the board of a corporation owned by the First Nation.

Selection of Lands
Committee members

28.3 The members of the Lands Committee are to be selected as follows:

- (a) one member of the Committee is to be appointed by the Council; and
- (b) the other members are to be elected by Eligible Voters.

Intended Composition
of Lands Committee

28.4 All family groups within BNA will be encouraged to participate in the election of the Lands Committee.

Term of Office

28.5 The commencement of the term of office of the members of the Lands Committee is as follows:

- (a) the appointed member is to be appointed by the Council as soon as possible after the election of the Council and serve a term of four (4) years; and
- (b) the other elected members are to be elected every four years, with elections held in the spring after the Council elections.

Election law

28.6 The Council shall enact a Land Law to establish the procedure for the Lands Committee election, including transitional rules for the election of the first members of the Lands Committee.

Vacancy on Lands
Committee

28.7 The office of a member of the Lands Committee becomes vacant if the person, while holding office:

- (a) resigns;
- (b) is or becomes ineligible to hold office under section 28.2;
- (c) transfers his or her membership to another First Nation; or
- (d) is absent for three (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.

Vacancy in term

28.8 Where the office of an elected or appointed member of the Lands Committee becomes vacant for more than ninety (90) days before the date when another appointment or

election would ordinarily be held, a special election may be held or appointment made in accordance with this *Land Code*, as the case may be, to fill the vacancy.

Balance of term of
Office

28.9 A member of the Lands Committee appointed or elected to fill a vacancy remains in office for the balance of the term in respect of which the vacancy occurred.

29. Chairperson of the Lands Committee

Chairperson

29.1 The Chairperson will be selected from the Lands Committee by the Committee members by way of a vote.

Alternate
Chairperson

29.2 If the Chairperson is unable to perform the functions of office, either temporarily or on a long-term basis, the Lands Committee shall appoint one of the other Lands Committee members to act as or be the Chairperson, subject to approval by the Council.

Functions of
Chairperson

29.3 The functions of the Chairperson include:

- (a) ensuring the preparation of financial statements relating to all activities of the Lands Committee, including the revenues and expenditures concerning BNA Land;
- (b) tabling the Lands Committee's financial statements with the Council;
- (c) reporting to BNA on the activities of the Lands Committee; and
- (d) ensuring that the audited annual financial statements are published under section 24.

30. Revenue From Lands and Resources

Determination of
Fees and Rent

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

- (a) the fees and rent for interests and licenses in Community Land;

- (b) the fees for services provided in relation to any BNA Land; and,
- (c) the fees and royalties to be paid for the taking of natural resources from BNA Land.

31. Registration of Interests and Licences

Establishment of Lands Department

- 31.1 Upon the successful adoption of the BNA *Land Code*, a Lands Department will be established and granted authorities through Council to handle the administrative duties required for the *Land Code*.

Enforcement of Interest and licences

- 31.2 An interest or licence in BNA Land created or granted after this *Land Code* takes effect is not enforceable unless it is registered in the BNA Land Register and the First Nations Land Register.

Registration of Consent or approval

- 31.3 An instrument granting an interest or licence in BNA Land that requires community approval, shall be of no force or effect unless a certified copy of the document that indicates the consent of approval is attached.

Invalid Registration of Consent or approval

- 31.4 An instrument registered in the First Nations Land Register which does not include the certificate referred to in section 31.3 is void.

Duty to deposit

- 31.5 An original copy of the following instruments shall be deposited in the First Nations Land Register, as established in Canada, in accordance with section 51.1 of the *Framework Agreement*:
- (a) any grant of an interest or licence in BNA Land; and
 - (b) any transfer or assignment of an interest or licence in BNA Land.

32. BNA Land Register

Maintain BNA register

- 32.1 The Council will establish and maintain the BNA Land Register and make Land Laws with respect to the Land Register and the effect of registering documents in the register.

Duty to deposit.

32.2 Every person who receives an interest or licence in BNA Land shall deposit an original copy of the relevant instrument in the BNA Land Register.

Priority

32.3 In the event of an inconsistency or a conflict between the BNA Land Register and the First Nations Land Register, the BNA Land Register prevails to the extent of the inconsistency or conflict.

PART 7

INTERESTS AND LICENCES IN LAND

33. Limits on Interests and Licences

All dispositions
in writing

- 33.1 An interest in, or licence to use, BNA Land may only be created, granted, disposed of, assigned or transferred by a written document made in accordance with this *Land Code*.

Standards

- 33.2 The Council may establish mandatory standards, criteria and forms for interests and licenses in BNA Land.

Improper
transactions void

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

Non-Members

- 33.4 A person who is not a Member may only hold a lease or licence in BNA Land.

Grants to non-Members

- 33.5 The approval of the community, by way of the community approval process defined in section 13.3 must be obtained for any grant or disposition of a lease or licence in BNA Land to a person who is not a Member. These grants or dispositions will only be granted to entities where it is felt to be beneficial to the membership.
- 33.6 It is the intent of this section that, where possible, interests are only granted to commercial entities with at least 51% ownership by the First Nation or its Members.

34. Existing Interests

Continuation of
existing interests and licences

- 34.1 Any interest or licence in BNA 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.

35. New Interests and Licences

Authority to make
dispositions

- 35.1 Subject to section 14.1, the Council may, on behalf of BNA, with the approval of the community as per the process defined in section 13.3, grant:
- (a) interests and licences in BNA Land, including certificates of possession, leases, permits, easements and rights-of-ways; and
 - (b) licences to take resources from BNA Land, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances.

Conditional grant

- 35.2 The grant of an interest or licence may be made subject to the satisfaction of written conditions.

Role of the Lands
Committee

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

36. Certificates of Possession or other Interests

Application

- 36.1 For greater certainty, certificates of possession or Member interests previously issued under the Indian Act shall continue to exist after the coming into force of this *Land Code* unless the Member agrees to have the certificate of possession or interest replaced with the issuance of a new interest document developed pursuant to the coming into force of this *Land Code*.

37. Allocation of Land to Members

Policies and Procedures for
Allocation of Land

- 37.1 Subject to the provisions of this *Land Code*, Council in consultation with the Lands Committee may establish policies and procedures for the allocation of Land to Members.

Allocation

- 37.2 Council may, in accordance with this *Land Code*:
- (a) allocate Land to Members; or
 - (b) issue a certificate of possession to a Member for Land allocated to that Member.

Nature of
Interest in CP

- 37.3 Subject to this *Land Code* and Land Laws, a certificate of possession in respect of a parcel of Land is an interest that shall entitle the Member holding it to:
- (a) permanent possession of the Land;
 - (b) benefit from the resources arising from the Land;
 - (c) grant subsidiary interests and licences in the Land, including leases, permits, easements and rights-of-ways;
 - (d) transfer, devise or otherwise dispose of the Land to another Member of BNA;
 - (e) any other rights, consistent with this *Land Code*, that are attached to certificates of possession under the *Indian Act*; and
 - (f) any other rights, consistent with this *Land Code*, that Council may grant by way of Land Law or Resolution.
- 37.4 A person who is not a Member is not entitled to be allocated Land or to hold a permanent interest in BNA Land.

38. Transfer and Assignment of Interests

Transfer of CP's

- 38.1 A Member may transfer or assign an interest in BNA Land to another Member without community approval or the consent of the Council.
- 38.2 Sufficient information related to the transfer, which is necessary for record-keeping purposes, must be provided to Council for record keeping.

Consent of Council

- 38.3 Except for transfers under section 38.1, transfers that occur by operation of law, including transfers of estate by testamentary disposition, or in accordance with a Land Law enacted pursuant to this *Land Code*:
- (a) there shall be no transfer or assignment of an interest in BNA Land without the written consent of the Council; and
 - (b) the grant of an interest or licence is deemed to include section 38.3 (a) as a condition on any subsequent transfers or assignments.

39. Limits on Mortgages and Seizures

Protections

39.1 Subject to this *Land Code*, in accordance with the *Framework Agreement*, the following provisions of the *Indian Act* continue to apply to BNA Land:

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

Mortgage of CP

39.2 The interest of a Member in BNA Land may be subject to a mortgage or charge, but only to a Member or, BNA with the written consent of the Council.

Mortgages of
leasehold interests
with consent

39.3 A leasehold interest may be subject to charge or mortgage, with the approval of BNA, and with the written consent of the Council.

Time limit

39.4 The term of any charge or mortgage of a leasehold interest shall not exceed:

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

Default in mortgage

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

- (a) the charge or mortgage received the written consent of the Council;
- (b) the charge or mortgage received community approval where required;
- (c) the charge or mortgage was registered in the BNA and First Nations Land Registers; and
- (d) a reasonable opportunity to redeem the charge or mortgage is given to the Council on behalf of BNA.

Power of redemption

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

40. Residency and Access Rights

Right of residence

40.1 The following persons have a right to reside on BNA Land;

- (a) Members, who have been allocated a residential lot by Council, and their spouses and children;
- (b) Members with a registered interest in BNA 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 the Council / Lands Committee or by a Land Law.

Right of Access

40.2 The following persons have a right of access to BNA Land;

- (a) a lessee and his or her invitees;
- (b) a permittee and those granted a right of access under a permit;
- (c) Members, their spouses and children;
- (d) a Member's invited guests;
- (e) a person who is authorized by a government body or any other public body, established by or under an enactment of BNA, Parliament or the province to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey; or
- (f) a person authorized in writing by the Council / Lands Committee or by a Land Law.

Public access

40.3 Any individual may have access to BNA Land for any social or business purposes, if:

- (a) the individual does not trespass on occupied BNA Land and does not interfere with any interest in Land;
- (b) the individual complies with all applicable Land Laws; and

- (c) no Resolution has been enacted barring that individual.

Trespass

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

Civil remedies

- 40.5 All civil remedies for trespass are preserved.

41. Transfers on Death

- 41.1 Until BNA 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 BNA Land.

- 41.2 A person who receives an interest in BNA 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 BNA Land Register.

Disposition of Land

- 41.3 If no provision has been made by the deceased Member of the disposition of the Land 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 BNA Land be issued; and
 - (b) a certificate of possession 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 BNA.
- 41.4 A Member who claims to be entitled to an allotment or certificate of possession by testamentary disposition or succession pursuant to the *Indian Act* is not entitled to such allotment until:
 - (a) such Member has filed with Council, or such person or body as may be designated by Council, an instrument in a form prescribed by Council, duly executed by the personal representative of the estate of the deceased Member transferring such allotment to the Member; and
 - (b) the instrument referred to in subsection (a) is registered in the First Nation Lands Register and BNA Land Register, if one is established.
- 41.5 A Member who purchases an allotment or certificate of possession pursuant to subsection 50(2) of the *Indian Act* is not entitled to such allotment until:

- (a) the purchaser has filed with Council , or such person or body as may be designated by Council, an instrument in a form prescribed by Council, duly executed by the person authorized under the *Indian Act* to execute a transfer of an allotment acquired pursuant to section 50(2) of the *Indian Act*; and,
- (b) the instrument referred to in subsection (a) is registered in the First Nations Land Register and the BNA Land Register, if one is established.

42. Spousal Property Law

Development of rules and procedures

- 42.1 The Council shall enact a spousal property law providing rules and procedures applicable on the breakdown of a marriage, to:
- (a) the use, occupancy and possession of BNA Land;
 - (b) the division of interests in that Land; and
 - (c) the division of the value of improvements in that Land.

Enactment of rules and procedures

- 42.2 The rules and procedures contained in the spousal property law shall be developed by the Lands Committee in consultation with the Membership.

Enactment deadline

- 42.3 The spousal property law must be enacted within 12 months from the date this *Land Code* takes effect.

General principles

- 42.4 For greater certainty, the rules and procedures developed by the Lands Committee under this section must respect the following general principles:
- (a) each Spouse should have an equal right to possession of their matrimonial home;
 - (b) each Spouse should be entitled to an undivided half interest in their matrimonial home, as a tenant in common;
 - (c) the rules and procedures shall not discriminate on the basis of sex; and
 - (d) only Members are entitled to hold a permanent interest in BNA Land or a charge against a permanent interest in BNA Land.

Immediate rules

42.5 In order that Members benefit immediately from the legislative authority of the Council to address the issue of spousal property under this *Land Code*, the Council may enact an interim spousal property law as soon as this *Land Code* comes into force.

PART 8

DISPUTE RESOLUTION

43. Dispute Resolution Panel

Panel established

- 43.1 The Dispute Resolution Panel is hereby established with jurisdiction to resolve disputes in relation to BNA Land.

Appointment of Panel

- 43.2 The Panel shall be composed of three (3) panelists, two (2) of whom must be Eligible Voters.

Representation

- 43.3 The Council shall appoint the panelists, and shall ensure that the Panel represents the various elements of the community, including different families, Elders, youth, professionals and non-resident Members.
- 43.4 The panelists shall consist of two (2) Members from the community, one (1) of which must be an Elder, and one (1) First Nation person non-Member, all of whom will be selected on the basis of a specific skill set deemed to be beneficial to the process.

Term of office

- 43.5 The panelists hold office for a term of four (4) years, with the term to be aligned with the election of Council.

Remuneration

- 43.6 The Council shall determine the remuneration to be paid to the members of a Panel.

44. Dispute Procedure

Disputes

- 44.1 Any person whose interest in BNA Land is affected by a decision of the Council may appeal the decision to the Panel.

Optional process

- 44.2 For greater certainty, an application to the Panel to resolve a dispute is optional and all other civil remedies continue to be available to Members and non-Members.

Disputes not
resolved by Council

44.3 If a Member, or a non-Member with an interest in BNA Land, has a dispute with respect to a decision of the Lands Committee or the Council, the person must first attempt to resolve that dispute with the Council or the Lands Committee, before referring the dispute to the Panel.

Application
Procedures

44.4 Applications to the Panel shall be made in accordance with the following procedures:

- a) the application must be made in writing to the Chair of the Lands Committee, or delegate, within the time limits indicated in section 44.5;
- b) the Lands Committee will review the application and meet with the person bringing forward the application and they will attempt to resolve the application with the person;
- c) if no resolution is obtained in step b) above, the Lands Committee Chair will forward the application to Council no later than the next regularly scheduled meeting of Council;
- d) Council must then forward the application to the Dispute Resolution Panel within five (5) days of the Council meeting where the application is considered;
- e) the Dispute Resolution Panel will then have thirty (30) days to make a decision on the application;
- f) the Dispute Resolution Panel will have access to all resources available within BNA. If additional resources or expertise is required from outside the community, BNA will cover all costs associated with retaining these resources;
- g) the person filing the application has the right to retain their own specialists and resources but they are responsible for any costs incurred by doing so;
- h) the Dispute Resolution Panel and any resources procured through their work are bound by the BNA Confidentiality Agreement; and
- i) any material generated by the Dispute Resolution Panel or their resources retained to reach a decision will be provided to the applicant along with the Decision of the Panel, in writing.

Limitation period

44.5 An application to refer a dispute with respect to a decision of the Council to the Panel shall be made:

- (a) within thirty (30) days after the day the decision, act or omission being referred was made; or
- (b) in the case of a dispute with the Lands Committee or the Council, thirty (30) days after the Lands Committee or Council rejects the attempts at resolution made under section 44.3.

45. Impartiality

Duty to act
Impartially

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

Offence

45.2 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

45.3 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.

46. Powers of Panel

Powers of Panel

46.1 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 back for a new decision.

Rules of Panel

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

Professional services

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

Written decisions

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

Reasons

46.5 The Panel shall give reasons for its decision, and shall do so in writing if a party to the proceedings requests them within fourteen (14) days after the date of the decision.

Appeal of decision

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

PART 9

OTHER MATTERS

47. Liability

Liability Coverage

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

Extent of coverage

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

48. Offences

Application of the Criminal Code

- 48.1 Unless some other procedure is provided for by a BNA Land Law, the summary conviction procedures of Part XXVII of the Criminal Code, as amended from time to time, apply to offences under this *Land Code* or under a Land Law.
- 48.2 The following procedure may be followed in the case of infractions or offenses committed under this *Land Code*:
- a) any infraction of the *Land Code* must be put in writing by the person reporting the infraction;
 - b) the Lands Committee will invite the person committing the infraction to a meeting where the situation will be assessed by the Lands Committee;
 - c) if, in the opinion of the Lands Committee, there are underlying issues that led to the infraction, all efforts will be made to retain resources to assist the person committing the infraction in addressing and resolving the underlying issues; and
 - d) in the case where the Lands Committee determines that there are no underlying issues or in the case where the person committing the infraction refuses assistance to resolve any underlying issues, a reasonable period of time will be given to the person committing the infraction to resolve the issue, as determined by the Lands Committee. If the person does not resolve the issue within this timeline, the Lands Committee will implement a resolution and the person committed the infraction or offense will be responsible for all costs associated with the resolution.

49. Amendments to the BNA *Land Code*

Community Approval

49.1 Any amendments to this *Land Code* that significantly change the scope of the document must be approved by Ratification Vote to be effective.

Revisions

49.2 A Ratification Vote is not required for revisions made to this *Land Code* that do not change the substance of this *Land Code*. The Council shall, from time to time, arrange and revise this *Land Code*. Revisions may be made as a result of, but are not limited to:

- (a) an amendment of the description of the BNA Land subject to the *Land Code* and the Individual Agreement as amended from time to time;
- (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) minor improvements in the language as may be required to bring out more clearly the intention of BNA without changing the substance of the *Land Code*;
- (e) changes in this *Land Code* as are required to reconcile seeming inconsistencies with other acts; and
- (f) correct editing, grammatical or typographical errors.

50. Commencement

Preconditions

50.1 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

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

ANNEX “A”

INTERPRETATIONS.

- 1.1 The definitions as set forth in the Framework Agreement and Act shall have the same meaning in this *Land Code*;
- 1.2 Where the time limited for the doing of an act expires or falls on a Saturday or Sunday or a federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday.
- 1.3 Where the time limited for the doing of an act in the BNA administration building falls on a day when the office is not open during regular business hours, the act may be done on the next day that the office is open.
- 1.4 Where there is a reference to a number of days or a number of days between two events, in calculating that number of days, the days on which the events happen are excluded.
- 1.5 If there is an inconsistency or conflict between this *Land Code* and any other enactment of BNA, this *Land Code* shall prevail to the extent of the inconsistency or conflict.
- 1.6 If there is an inconsistency or conflict between this *Land Code* and the *Framework Agreement*, the *Framework Agreement* shall prevail to the extent of the inconsistency or conflict.
- 1.7 The structures, organizations, Land Laws and procedures established by or under this *Land Code* shall be interpreted in accordance with the culture, traditions and customs of BNA, unless otherwise provided.
- 1.8 This *Land Code* is not intended to abrogate or derogate from any aboriginal, treaty or other right or freedom that pertains now or in the future to BNA or its Members.
- 1.9 This *Land Code* is not intended to affect the eligibility of BNA 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 BNA has not assumed responsibility for such services or programs.
- 1.10 This Land Code shall be interpreted in a fair, large and liberal manner.
- 1.11 The principles set out in the Preamble to this *Land Code* may be used to interpret this *Land Code*.
- 1.12 In this *Land Code*:
 - (a) The use of the word “shall” denotes an obligation that, unless this *Land Code* provides to the contrary, must be carried out as soon as practicable after this *Land Code* comes into effect or the event that gives rise to the obligation;
 - (b) Unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;

- (c) Headings and subheadings are for convenience only, do not form a part of this *Land Code* and in no way define, limit, alter or enlarge the scope or meaning of any provision of this *Land Code*;
 - (d) A reference to a law includes every amendment to it, every regulation made under it and any law enacted in substitution for it or in replacement of it;
 - (e) Unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular; and
 - (f) Unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine.
- 1.13 This *Land Code* is not intended to abrogate the fiduciary relationships between Canada, BNA and its Members.

APPENDIX “A”
DESCRIPTION OF BNA LAND AS LISTED AS ANNEX “G” IN THE
INDIVIDUAL AGREEMENT ON FIRST NATION LAND MANAGEMENT
BETWEEN BNA AND HER MAJESTY THE QUEEN IN THE RIGHT OF
CANADA

ANNEX “G”
DESCRIPTION OF BNA LAND

Sand Point First Nation Reserve

Legal Description of the Extent of Reserve Lands that will be subject to the Land Code of the Bingwi Neyaashi Anishinaabek First Nation under the First Nations Land Management Act.

Reserve Lands within the Province of Ontario, Canada in the District of Thunder Bay, more particularly described as:

All of Sand Point First Nation Reserve as shown on:

Firstly: Part 1, Plan 83196 recorded in the Canada Lands Surveys Records (CLSR).
Secondly: Parts 1, 2, 4, 5 and 7, Plan 83197 CLSR

Total Lands containing 984.6 hectares (2433 acres), more or less.

The above described Reserve Lands are subject to:

the rights retained by Her Majesty in right of Ontario according to Order in Council PC 2010-497, registered in the Indian Lands Registry as No 371898, to flood and overflow lands shown as Parts 1 and 2, Plan 95589 CLSR.