

Draft

Wahnapitae First Nation Land Code



REVISION 3- July 10 2025

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Preamble

Whereas Wahnapiatae First Nation has profound relationship with the Land that is rooted in respect for the spiritual value of the Earth and the gifts of the Creator and has a deep desire to preserve their relationship with the Land;

And Whereas the Anishinabek of Wahnapiatae First Nation have occupied this territory since time immemorial. It is the collectivity of our Anishinaabe people who share the language, culture, Laws and Land in our Traditional Territory.

And Whereas the Creator placed the Anishinaabe on earth along with the gifts of spirituality. Here on Mother Earth, there were gifts given to the Anishinaabe to look after fire, water, earth and wind.

And Whereas Wahnapiatae First Nation is guided by the seven sacred gifts given to the Anishinaabe by the Creator: Love, Truth, Respect, Wisdom, Humility, Honesty and Bravery.

And Whereas the Creator gave the Anishinabek of Wahnapiatae First Nation sovereignty to govern ourselves. We respect and honour the past, present and future.

And Whereas thirteen First Nations and Canada concluded a government-to-government Framework Agreement on First Nations Land Management on February 12, 1996;

And Whereas the Framework Agreement on First Nation Land Management provides the option to First Nations of withdrawing their reserve Land from the land management provisions of the *Indian Act* in order to exercise control over their Land and resources for the use and benefit of their Members;

And Whereas Canada ratified its commitment to the Framework Agreement on First Nation Land Management with the enactment of the First Nations Land Management Act, S.C. 1999, c.24;

And Whereas under the Framework Agreement on First Nations Land Management, Canada recognizes that First Nations have a unique connection to and constitutionally protected interest in their Lands, including decision-making, governance, jurisdiction, legal traditions, and fiscal relations associated with those Lands;

And Whereas under the Framework Agreement on First Nation Land Management, Canada has committed to implementing the United Nations Declaration on the Rights of Indigenous Peoples in a manner consistent with the Canadian Constitution Act.

And Whereas Wahnapiatae First Nation became a signatory on June 15, 2021, to the Framework Agreement on First Nation Land Management, as Wahnapiatae First Nation wishes to govern its Land and resources under the Wahnapiatae First Nation Land Code, rather than having its Land and resources managed on its behalf under the *Indian Act*;

And Whereas the Framework Agreement on First Nation Land Management acknowledges that Canada's special relationship with Wahnapiatae First Nation will continue;

And Whereas the Framework Agreement on First Nation Land Management is ratified by Wahnapiatae First Nation Land Code;

Now Therefore this Wahnapiatae First Nation Land Code is Hereby Enacted as the Fundamental Land Law of Wahnapiatae First Nation.

Part 1 Preliminary Matters

1. Definitions

Clarification

- 1.1 Any words or terms used in this Land Code which are defined in the Framework Agreement shall have the same meaning as in the Framework Agreement unless the context otherwise requires.

Definitions

- 1.2 The following definitions apply in this Land Code:

"Canada"	means His Majesty the King 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 Wahnapiatae First Nation Land in which all Members have a common interest;
"Council"	means the Chief and Council of Wahnapiatae First Nation, or any successor elected government of Wahnapiatae First Nation;
"Eligible Voter"	means for the purpose of voting in respect of Land matters under this Land Code, a member who has attained eighteen (18) years of age on or before the day of the vote;
"Extended Family"	in respect of a person, means a person's grandparent, uncle, aunt, first degree cousin, grandchild, and/or any other relation or relationship that Council may add by Law;
"First Nation Lands Register"	means the register established pursuant to clause 51 of the Framework Agreement and regulated by the <i>First Nations Land Registry Regulations</i> or any successor Land register that may be established to replace the First Nation Lands Register;

"Framework Agreement"	means the Framework Agreement on First Nation Land Management, entered into between Canada and the signatory First Nations on February 12, 1996, and amended to include Wahnapiatae First Nation on June 15, 2021.
"Immediate Relatives"	In respect of a person, means a person's parent, sister, brother, child, and Spouse;
"Individual Agreement"	means the Individual Agreement providing for the specifics of transfer of administration made between Wahnapiatae First Nation and Canada in accordance with the Framework Agreement;
"Interest"	in relation to First Nation Land, means any Interest, right or estate of any nature in or to that Land, including a certificate of possession, certificate of entitlement, lease, easement, right of way, servitude, or profit à prendre, but does not include title to that Land;
"Land" or "Wahnapiatae First Land"	means any reserve Land that is subject to this Land Code;
"Lands Committee"	means the Lands Committee established under Part 6 of this Land Code;
"Licence"	in relation to Wahnapiatae First Nation Land, means any right of use or occupation of that Land, other than an Interest in the Land;
"Member"	means a person whose name appears or is entitled to appear on the Wahnapiatae First Nation Band Membership List;
"Wahnapiatae First Nation"	means Wahnapiatae First Nation and its Members;
"Spouse"	means a person who is married to another, whether by a traditional, religious or civil ceremony, and includes a Spouse by Common-Law Partnership.

2. Interpretation

2.1 In this Land Code:

- a) the Land Code shall be interpreted in a fair, large and liberal manner;
- b) the word "shall" signifies 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;
- c) 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";
- d) titles and headings have been inserted in the Land Code for convenience of reference only, and are not interpretive aids;
- e) 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;
- f) unless otherwise clear from the context, whenever the singular is used, it will include the plural, and the use of the plural includes the singular;

- g) all references to a time period of days means consecutive days and not business days;
- h) where the time limited for the doing of an act expires or falls on a Saturday or Sunday, or a First Nation, federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday;
- i) where the time limited for the doing of an act in the Wahnapiatae First Nation administration building falls on a day when the office is not open, the act may be done on the next day that the office is open;
- j) 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; and
- k) the principles set out in the Preamble to this Land Code may be used to interpret this Land Code.

Culture and Traditions

2.2 The structures, organizations and procedures established by or under this Land Code shall be interpreted in accordance with the culture, traditions, and customs of Wahnapiatae First Nation.

Language

2.3 The language of Wahnapiatae First Nation may be used to clarify the meaning of any provision in this Land Code.

Consistency with Framework Agreement

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

Paramountcy

2.5 If there is an inconsistency or conflict between the Land Code and any other enactment of Wahnapiatae First Nation, including a by-law enacted under section 81 of the *Indian Act*, this Land Code prevails to the extent of the inconsistency or conflict.

Rights not affected

2.6 This Land Code does not change:

- a) Any Aboriginal, Treaty, inherent rights or other rights or freedoms that pertain now or in the future to Wahnapiatae First Nation or its Members; or
- b) The fiduciary relationship between Canada and Wahnapiatae First Nation and its Members; or
- c) The by-law powers of Council pursuant to the *Indian Act*.

Lands and Interests affected

2.7 A reference to Land in the Land Code includes all the Interests and rights, as well as the resources that belong to that Land to the extent these are under the jurisdiction of Canada and are part of that Land, and includes:

- a) The water, beds underlying water, riparian rights, and renewable and non-renewable natural resources in and of that Land;
- b) All the Interests and Licences granted by Canada listed in the Individual Agreement; and
- c) All the Interests and Licences granted by Wahnapiatae First Nation after this Land Code comes into effect.

Eligible Reserve Land

2.8 Only Land that is a reserve of Wahnapiatae First Nation is eligible to be governed by Wahnapiatae First Nation as Land under this Land Code

3. Authority to Govern

Origin of Authority

3.1 The traditional teachings of Wahnapiatae First Nation say that here on Mother Earth, there were gifts given to the Anishinaabe to look after fire, water, earth and wind. The Creator also gave the Anishinaabe seven sacred gifts to guide them: Love, Truth, Respect, Wisdom, Humility, Honesty and Bravery. The Creator gave us sovereignty to govern ourselves, and to care for and respect the Land and the magnificent wonders of nature created on the Land. By enacting this Land Code, Wahnapiatae First Nation is reclaiming this special responsibility.

Flow of Authority

3.1.3.2 The Creator placed the Anishinaabe on the earth along with the gifts of spirituality. The authority of Wahnapiatae First Nation to govern its Land and resources flows from the Creator to the Members of Wahnapiatae First Nation, and from the Members to Council according to the culture, traditions, customs, and laws of Wahnapiatae First Nation.

4. Purpose

Purpose

4.1 The purpose of this Land Code is to set out the principles, rules, and administrative structures that apply to Wahnapiatae First Nation Land and by which Wahnapiatae First Nation will exercise authority over the Land in accordance with the Framework Agreement.

5. Description of Wahnapiatae First Nation

Wahnapiatae First Nation Land

5.1 The Wahnapiatae First Nation Land that is subject to this Land Code is the Land described in Appendix "A" of this Land Code and any other reserve Lands or Interests of Wahnapiatae First Nation that are made subject to this Land Code by resolution or ministerial order.

Addition to Wahnapiatae First Nation Land

5.2 In accordance with any request made by Wahnapiatae First Nation, the Minister may, by order, set apart as a reserve, for the use and benefit of Wahnapiatae First Nation, any lands the title to which is vested in Canada, and provide in the order that the lands are First Nations Land.

Application of Land Code

5.3 Before the lands are transferred to Canada by Wahnapiatae First Nation or a third party for the purpose of being set apart as a reserve, or before the lands are set apart as a reserve, Wahnapiatae First Nation may, in accordance with its Land Code:

- a) Grant interests or Land rights in and licences in relation to the lands, and
- b) Enact zoning or other Laws within the scope of the Framework Agreement in relation to the lands that will come into force only if and when the lands become Wahnapiatae First Nation Land.

Amendment to the Description of Land

5.4 As of the date of any resolution or ministerial order adding Lands to Wahnapiatae First Nation Land, the description of Wahnapiatae First Nation Land in the Land Code will be deemed to be amended to add the description of Wahnapiatae First Nation Land set out in the resolution or order.

Additional Lands

5.5 Council shall hold a meeting of Members prior to the amendment of the description of Wahnapiatae First Nation Land subject to this Land Code.

Part 2

First Nation Legislation

6. Law Making Powers

Council may make Land Laws

- 6.1 Council may, in accordance with this Land Code, make Land Laws respecting;
- a) The development, conservation, protection, management, use and possession of Wahnapiatae First Nation Land;
 - b) Interests and Licences in relation to Wahnapiatae First Nation Land; and
 - c) Any matters necessary or ancillary to the making of Land Laws in relation to Wahnapiatae First Nation Land.

Examples of Land Laws

6.2 For greater certainty, Council may make Land Laws including:

- 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 Wahnapiatae First Nation Land;
- c) Environmental assessment and protection;
- d) Provision of local services in relation to Wahnapiatae First Nation Land and the imposition of equitable user charges;
- e) Enforcement of Land Laws; and
- f) Provision of services for the resolution, outside the courts, of disputes in relation to Wahnapiatae First Nation Land.

Regulatory Instruments

6.3 For greater certainty, in addition to Land Laws, Council may make other regulatory instruments, including rules, regulations, standards, codes and policies.

7. Law Making Procedure

Introduction of Land Laws

- 7.1 A proposed Land Law may be introduced at a duly convened meeting of Council by:
- a) The Chief;
 - b) A Councillor; or
 - c) The representative of the Lands Committee, or any other Member or organization of Members, that may be authorized by Council to do so.

Rationalization of Proposed Land Law

7.2 Any proponent shall submit a written explanation of the reason for the proposed Land Law.

Lands Committee Review

7.3 Council shall refer a proposed Land Law to the Lands Committee for review and comment, unless the Lands Committee is the proponent.

Procedure upon receipt of Proposed Land Law

- 7.4 Upon receipt of a proposed Land Law, Council may:
- a) Table the proposed Land Law for further review or enactment
 - b) Request that the proponent provide further information or attend before a future meeting of Council to speak to the proposed Land Law;
 - c) Refer the proposed Land Law to the Lands Committee for review and comment, unless the Lands Committee is the proponent;
 - d) Undertake or direct the preparation of the draft Land Law concerning matters raised in the proposed Land Law, for consideration by Council; or
 - e) Reject the proposed Land Law.

Tabling and posting of proposed Land Laws

7.5 Before a proposed Land Law may be enacted, Council shall:

- a) table the proposed Land Law at a duly convened meeting of Council
- b) Post it in public places and publish it online;
- c) Deposit the proposed Land law with the Lands Committee;
- d) Review comments and recommendations, provided by the Lands Committee; and
- e) Take any other steps to give notice of the proposed Land Law that Council may consider appropriate.

Urgent matters

7.6 Council may enact a Land Law without the preliminary steps set out in section 7.5, if Council is of the opinion that the Land Law is needed urgently for public health and safety or to protect Wahnapiatae First Nation Land or the Members, however, this Land Law expires one hundred and twenty (120) days after its enactment unless re-enacted in accordance with clause 7.5.

Approval of Land Law

7.7 Subject to this Land Code, a Land Law is approved by a quorum of Council at a duly convened meeting of Council open to the Members.

Certification of Land Laws

7.8 The original copy of any approved Land Law or resolution concerning Wahnapiatae First Nation shall be signed by a quorum of Council.

Land Laws taking effect

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

8. Publication of Land Code and Land Laws

Publication

8.1 All Land Laws, this Land Code, and any enacted amendments to the Land Code, shall be published:

- a) In the minutes of the Council meeting at which it was enacted;
- b) By posting a copy of the Land Code and Land Law, as soon as practicable after enactment, in a location within the administrative office of Wahnapiatae First Nation accessible to all Members;
- c) By posting a copy of the Land Code and Land Law online; and
- d) By any additional method as Council may consider appropriate.

Registry of Land Laws

8.2 Council shall cause to be kept at the administrative offices of Wahnapiatae First Nation, a register containing the Land Code, all Land Laws and resolutions, including Land Laws and resolutions that have been repealed or are no longer in force.

Copies for any Person

8.3 Any person may obtain a copy of the Land Code, a Land Law or resolution.

9. Enforcement of Land Laws

Enforceability of Land Laws

9.1 To enforce its Land Code and its Land Laws, Wahnapiatae First Nation shall have the power to:

- a) Establish offences that are punishable on summary conviction;
- b) Provide for fines, imprisonment, restitution, community services, and alternate means for achieving compliance;
- c) Establish comprehensive enforcement procedures consistent with federal and provincial Law, including inspections, searches, seizures, and compulsory sampling, testing, and the production of information; and
- d) Provide for the collection of non-tax debts, fees or charges owed to Wahnapiatae First Nation using taxation collection remedies made under Wahnapiatae First Nation taxation laws, if the First Nation has enacted taxation laws or by-laws under another act of Parliament.

Agreement for Recovery of Fines

9.2 Wahnapiatae First Nation may enter into agreements with other governments or government agencies to collect any fines, debts, fees or other penalties imposed by its Land Code or First Nation Laws.

Prosecuting Offences

9.3 For the purpose of prosecuting offences, Wahnapiatae First Nation may:

- a) Retain its own prosecutor;
- b) Enter into an agreement with the province to arrange for a provincial prosecutor; and
- c) Make Laws with respect to the appointment and authority of justices of the peace.

Part 3

Community Meetings and Approvals

10. Participation of Members

Participation of Members

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

11. Participation of Eligible Voters

Participation of Eligible Voters

11.1 Every Eligible Voter is entitled to participate in community approvals.

12. Meeting of Members and Community Approval Procedure

Notice of Meeting

- 12.1.1 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) A brief description of the matter to be discussed;
 - c) A brief description of any matter that requires community approval; and
 - d) Other information and material that Council considers appropriate.

Manner of notice

- 12.2 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.

Permission of Council

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

Informed Decision

- 12.3.1 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.

13. Community Meetings of Members

Community Meetings

- 13.1 Council shall call a meeting of Members prior to:
- a) Enacting a Land Law respecting a community plan or subdivision plan;
 - b) Making a decision concerning any development affecting a heritage site or an environmentally sensitive property;
 - c) Enacting a Land Law respecting environmental assessment and protection;
 - d) Enacting a Land Law respecting the transfer and assignment of rights and Interests in Wahnapiatae First Nation Land;
 - e) Enacting a Land Law respecting family homes and matrimonial interests on Wahnapiatae First Nation Land;
 - f) Enacting a Land Law respecting the rate and criteria for the payment and fees of rent for Wahnapiatae First Nation Land;
 - g) Enacting a Land Law respecting the rights and procedures on community expropriation; and
 - h) Respecting any other matter, Land Law or class of Law that Council, by Resolution, declares to be subject to this section.

No Quorum

13.2 No quorum or minimum level of participation is required at a meeting of Members.

14. Community Approval

Community Approval

- 14.1 Community approval 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 Wahnapiatae 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 Wahnapiatae 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 Wahnapiatae First Nation Land exceeding a term of five (5) years;
 - e) Any deletion of a heritage site;
 - f) Any voluntary exchange of Wahnapiatae 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.

Utility Permits Excepted

- 14.2 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.

Method of Voting

- 14.3 Community approval shall be obtained by one or more of the following methods;
- a) Establishing polling locations;
 - b) Mail-in ballot;
 - c) Alternative voting methods, such as electronic and telephone voting; or
 - d) Any other method outlined in the Wahnapiatae First Nation Ratification Process

Community Approval

- 14.4 A matter shall be considered approved if a majority of fifty percent plus one (50%+1) of participating Eligible Voters cast a vote in favour of the matter.
- 14.5 Despite clause 14.4, Council may, by resolution prior to a vote, do either or both of the following;
- a) Establish a percentage of Eligible Voters who must participate in the vote in order for the result to be binding;
 - b) Require that a percentage greater than fifty percent plus one (50%+1) of participating Eligible Voters must approve the matter in order to obtain community approval.

15. Ratification

Community Approval by Ratification Vote

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

Exceptions

- 15.2 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 47: and

An amendment to, or renewal of, the Individual Agreement.

Ratification Process

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

Approved by Ratification Vote

- 15.4 A matter shall be considered approved if a majority of fifty percent plus one (50%+1) of participating Eligible Voters cast a vote in favor of the matter.

Increased threshold

- 15.5 Despite 15.4, Council may, by resolution prior to a vote, do either or both of the following:
- a) Establish a percentage of Eligible Voters who must participate in the vote in order for the result to be binding;
 - b) Require that a percentage greater than the fifty percent plus one (50%+1) of participating Eligible Voters must approve the matter in order to obtain community approval.

Policies Consultation, Approval and Ratification

- 15.6 For greater certainty, Council may make Land Laws or policies respecting:
- a) Meetings of Members;
 - b) Community consultations;
 - c) Community approvals;
 - d) Ratification votes; and
 - e) Any other matter, that Council, by resolution, declares to be subject to Part 3 of this Land Code.

Part 4
Protection of Land

16. Expropriation
Acquisition by Mutual Agreement

16.1 Wahnapiatae First Nation may expropriate an Interest or Licence in Wahnapiatae First Nation Land, providing that it has made a good faith effort to acquire, by mutual agreement, the Interest or Licence.

16.2 An Interest or Licence in Wahnapiatae First Nation Land, or in any building or other structure on that Land, may only be expropriated by Wahnapiatae First Nation in accordance with the Framework Agreement and a Land Law enacted for the purpose of establishing the rights and procedures for community expropriations as provided in clause 16.4.

Community Purpose

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

Expropriation Land Laws

16.4 Before proceeding to make any community expropriations in accordance with this Land Code and the Framework Agreement, 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

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

Member Notification

16.6 In the case of an expropriation of a Member's Interest in Wahnapiatae 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

16.7 In accordance with clause 17.6 the Framework Agreement, an Interest of Canada or the province in Wahnapiatae First Nation Land is not subject to expropriation by Wahnapiatae First Nation.

Compensation for Rights and Interests

16.8 Wahnapiatae First Nation shall, in accordance with its Land Laws and the Framework Agreement:

- a) Serve reasonable notice of the expropriation on each affected holder of the Interest or Licence to be expropriated; and

- b) Pay fair and reasonable compensation to the holders of the Interest or Licence being expropriated.

Compensation Calculations

- 16.9 In accordance with clause 17.4 the Framework Agreement, Wahnapiatae 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

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

Neutral Evaluation to Resolve Disputes

- 16.11 The resolution of disputes concerning the right of Wahnapiatae First Nation to expropriate shall be determined 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 the Framework Agreement shall be applied, as appropriate in the circumstance, by the neutral evaluator.

Arbitration to Resolve Disputes

- 16.12 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 holder of an expropriated Interest or Licence to compensation; and
 - b) Disputes concerning the amount of the compensation.

17. Voluntary Exchange of Wahnapiatae First Nation Land

Conditions for a Land exchange

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

No effect

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

Land to be received

- 17.3 No land exchange may occur unless the land to be received in the exchange meets the following conditions:
- a) It shall be equal to or greater than the area of the Wahnapiatae First Nation Land to be exchanged;
 - b) It shall be at least comparable to the appraised value of the Wahnapiatae First Nation Land; and

- c) It shall become a reserve and Wahnapiatae First Nation Land subject to this Land Code.

Negotiators

- 17.4 The person who will have authority to negotiate a land exchange agreement on behalf of Wahnapiatae First Nation shall be designated by resolution.
- 17.5 Wahnapiatae 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 Wahnapiatae First Nation in fee simple or some other manner.

Federal Consent

- 17.6 Before Wahnapiatae 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

- 17.7 Once negotiations on the land exchange agreement are concluded, Council shall provide the following information to Eligible Voters before the vote:
 - a) A description of the Wahnapiatae 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

- 17.8 The land exchange agreement shall provide that:
 - a) The other party to the exchange must transfer to Canada the title to the land which is to be set apart as a reserve;
 - b) Council must pass a resolution authorizing Canada to transfer title to Wahnapiatae 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 Wahnapiatae First Nation, and with full indemnification to Wahnapiatae First Nation.

Part 5

Accountability

18. Conflict of Interest or Appearance of Conflict of Interest

Application of rules

- 18.1 The conflict of interest rules in this Land Code apply to the following persons:
- a) Each member of Council who is dealing with any matter before Council that is related to Wahnapiatae First Nation Land;
 - b) Each person who is an employee of Wahnapiatae First Nation dealing with any matter that is related to Wahnapiatae First Nation Land;
 - c) Each member of the Dispute Resolution Panel; and
 - d) Each person who is a member of a board, committee, or other body of Wahnapiatae First Nation dealing with any matter that is related to Wahnapiatae First Nation Land.

Duty to report and abstain

- 18.2 If there is any actual or apparent financial, familial or personal conflict of interest in the matter being dealt with, the person:
- a) Shall disclose the interest to Council, or the board, committee or other body as the case may be;
 - b) Shall not take part in any deliberations on that matter or vote on the matter; and
 - c) Shall remove themselves from the proceedings.

Apparent Conflict of Interest

- 18.3 A person 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 has been affected by his or her private interest or the private interest of an Immediate Relative.

Inability to Act

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

Meeting of Members

- 18.5 If Council is unable to vote on a matter due to a conflict of interest, Council may refer a matter, a proposed Land Law or resolution to a community meeting of Members.

Specific Conflict Situations

- 18.6 No Immediate Relatives and not more than two (2) members from the same Extended Family shall be concurrent members of an appointed board, committee, or other body dealing with any matter that is related to Wahnapiatae First Nation Land. Council or any other elected board, committee, or body is exempt from this rule.

Disputes

- 18.7 The panel has the jurisdiction to hear and decide on any matter concerning a conflict of interest.

Other Laws

- 18.8 For greater certainty, Council may develop a policy or enact Laws to further implement this section.

19. Financial Management

Application

- 19.1 This section applies only to financial matters relating to Wahnapiatae First Nation Land and natural resources.

Financial Policies

- 19.2 Council may, in accordance with this Land Code, develop, adapt, or adopt financial management Laws or policies, including:
- a) Regulating the receipt, management and expenditure of moneys, including transfer payments, all capital and revenue moneys received from Canada, all Land revenue, and moneys received from a grant or disposition of any Interest or Licence in relation to Wahnapiatae First Nation Land and natural resources;
 - b) Managing financial records and accounts;
 - c) Preparing financial statements and audits;
 - d) Preparing and implementing budgets and annual presentation of budgets;
 - e) Determining the general investment strategy;
 - f) Contract notes, loans and other indebtedness;
 - g) Establishing fees, fines, charges and levies; and
 - h) Establishing and maintaining a recordkeeping system that ensures confidentiality, security of records and document retention.

Administrative Structure

- 19.3 Council shall establish the administrative structure:
- a) To implement all financial policies and procedures;
 - b) To oversee the day to day operational responsibilities for managing moneys related to Wahnapiatae First Nation Land and natural resources;
 - c) To ensure the accuracy of the accounting records;
 - d) To reconcile, review and approve bank statements;
 - e) To present the annual budget to Members;
 - f) To present annually an audit of the financial statements to the Members; and
 - g) To prepare the annual report to Members.

20. Annual Report

Publish Annual Report

20.1 Council, on behalf of Wahnapiatae First Nation, shall publish an annual report on Land matters.

Contents

- 20.2 The annual report shall include:
- a) An annual review of Wahnapiatae First Nation Land and natural resources management;
 - b) Annual budget;
 - c) A copy and explanation of the audit as it applies to Wahnapiatae First Land and natural resources; and
 - d) Any other matter as determined by Council or Lands Committee.

21. Access to Information

Access

- 21.1 Any person may, during normal business hours at the main administrative office of Wahnapiatae First Nation, have reasonable access to:
- a) The register of Land Laws;
 - b) The auditor's report; and
 - c) The annual report on Land and natural resources.

Copies for Members

- 21.2 Any Member may obtain a copy of the auditor's report or annual report.

Access to Records

- 21.3 Any person authorized by Council may inspect the financial records of Wahnapiatae First Nation related to Land.

Part 6

Land and Natural Resource Administration

22. Land Staff

Administration

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

23. Lands Committee

Lands Committee Established

- 23.1 The Lands Committee is hereby established for the following purposes:
- a) Assist Council with the development of the Land administration system;
 - b) Advise Council and its staff on matters respecting Wahnapiatae First Nation Land;
 - c) Recommend Land Laws, resolutions, policies, and practices respecting Wahnapiatae First Nation Land to Council;

- d) Consult with Members and non-Members on Wahnapiatae First Nation Land issues, and to make recommendations on the resolution of those issues to council;
- e) Oversee community meetings of Members, community approvals and ratification votes; and
- f) Perform such other duties as may be delegated or assigned by resolution or Land Law under this Land Code.

Process to implement Land Laws

- 23.2 The Lands Committee shall, within a reasonable time after this Land Code takes effect, recommend to Council a community process to develop and implement Land Laws.
- 23.3 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 Council.

24. Implementation of Lands Committee

First Lands Committee

- 24.1 Immediately upon the coming into effect of this Land Code, Council shall select a Lands Committee to serve for a term of up to three (3) years until a policy governing the Lands Committee comes into force.

Policy Governing Successors to the First Lands Committee

- 24.2 As soon as possible after the coming into force of this Land Code, Council, in consultation with the Lands Committee, shall develop a policy for the selection, election, or appointment of Eligible Voters to serve on the Lands Committee, and dealing with such matters as number of members, composition, eligibility, Chair and Deputy Chair, functions of the Chair, term of office, remuneration, conditions of service, termination, vacancies arising during term and such other matters as Council deems appropriate to the operation of the Lands Committee.

Part 7

Interests and Licences in Land

25. Revenue from Land and Natural Resources

Determination of fees and rent

- 25.1 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 Wahnapiatae First Nation Land;
 - b) The fees for services provided in relation to any Wahnapiatae First Nation Land; and
 - c) The fees and royalties to be paid for the taking of natural resources from Wahnapiatae First Nation Land.

26. Registration of Interests and Licences

Enforcement of Interests and Licences

- 26.1 An Interest or Licence in Wahnapiatae 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

- 26.2 An instrument granting an Interest or Licence in Wahnapiatae 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

- 26.3 A copy of the following instruments shall be deposited in the First Nation Land Register;
- a) Any grant of an Interest or Licence in Wahnapiatae First Nation Land;
 - b) Any transfer or assignment of an Interest or Licence in
 - c) Every Land use plan, subdivision plan or resource use plan;
 - d) Every Land Law; and
 - e) This Land Code and any amendments to this Land Code.

27. Limits on Interest and Licences

All dispositions in writing

- 27.1 An Interest or Licence in Wahnapiatae 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.
- 27.2 Council may establish mandatory standards, criteria and forms for Interests and Licences in Wahnapiatae First Nation Land.

Improper transactions not enforceable

- 27.3 A deed, lease, contract, instrument, document, or agreement of any kind or any provision thereof which contravenes this Land Code is not enforceable.

28. Existing Interests

Continuation of existing Interests and Licences

- 28.1 Any Interest or Licence in Wahnapiatae 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 but this Land Code shall govern all subsequent transactions and dispositions concerning the Interest or Licence.

Voluntary amendment or replacement of existing Interest or License

- 28.2 For greater certainty, the terms of a designation or surrender made under the *Indian Act* do not restrict the ability of Wahnapiatae First Nation and third parties, a Member or non-Member, by agreement, to modify an Interest or Licence or to have the Interest or Licence replaced by a new Interest or Licence issued under this Land Code.

Replacing the role of the Minister

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

Unregistered Interests

28.4 A policy and process shall be established as soon as practical after the coming into force of the Land Code for the validation and registration of unregistered Interests.

29. New Interests and Licences

Authority to make Dispositions

- 29.1 Council may, on behalf of Wahnapiatae First Nation, grant:
- a) Interests and Licences in Wahnapiatae First Nation Land, including certificates of possession, member allocations, leases, permits, easements, and right of ways; and
 - b) Licences to take natural resources from Wahnapiatae First Nation Land, including cutting timber, or removing minerals, stone, sand, gravel, clay, soil, or other substances.

Conditional Grant

29.2 The grant of an Interest or Licence may be made subject to the satisfaction of written conditions which may be registered as an encumbrance of the Interest or Licence.

Role of the Lands Committee

29.3 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.

30. Interests of Non-Members

Grants to non-Members

30.1 A transfer or other disposition of all or any part of an Interest or Licence in Wahnapiatae 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.

31. Certificates of Possession or Member Interests

Application

31.1 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.

32. Allocation of Land to Members

Policies and procedures to allocation of Land

32.1 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

- 32.2 Council may, in accordance with this Land Code and any applicable Land Laws:
- 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

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

33. Transfer and Assignment of Interests

Transfer of Member Interest

- 33.1 A Member may transfer or assign an Interest in Wahnapiatae First Nation Land to another Member without community approval or the consent of Council.
- 33.2 There shall be no transfer or assignment of an Interest in Wahnapiatae 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 any family homes and matrimonial interests Land Laws.

34. Limits on Mortgages and Seizures

Protections

- 34.1 In accordance with the Framework Agreement, the following provisions of the *Indian Act*, as amended from time to time, continue to apply to Wahnapiatae First Nation Land:
- a) Section 29;
 - b) Section 87;
 - c) Sub-section 89(1); and
 - d) Sub-section 89(2).

Mortgage of Allocated Land

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

Mortgages of leasehold Interests with consent

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

Time limit

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

Default in mortgage

34.5 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, 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 Wahnapiatae First Nation.

Power of redemption

34.6 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

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

35. Residency and Access Rights

Right of residence

- 35.1 The following persons have a right to reside on Wahnapiatae First Nation Land:
- a) Members and their Spouses and children;
 - b) Members with a registered Interest in Wahnapiatae 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 Land Law.

Right of Access

- 35.2 The following persons have a right of access to Wahnapiatae First Nation Land:
- a) A lessee and their invitees;
 - b) A person granted a right of access under a permit;
 - c) Wahnapiatae First Nation Members and their Spouses and children and their invitees;
 - d) A person who is authorized by a government body or any other public body, established by or under an enactment of Wahnapiatae 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 Land Law.

35.3 Any person may have access to Wahnapiatae 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

35.4 Any person may have the right of access to Wahnapiatae First Nation public roads, subject to this Land Code and Land Laws.

Trespass

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

Civil remedies

35.6 All civil remedies for trespass are preserved.

36. Transfers on Death

Indian Act application

- Subject to any Land Laws on family homes and matrimonial interests and any Land Law which Wahnapiatae may enact providing for transfers on death, the provision of the *Indian Act* dealing with wills and estates shall continue to apply with respect to Interests and Licences in Wahnapiatae First Nation Land.

Registration of transfer

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

Disposition of Interest

- 36.2 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 their delegate may make application to Council requesting that an instrument evidencing lawful possession occupation of Wahnapiatae 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 their delegate, if the beneficiary or purchaser is a Member of Wahnapiatae First Nation.

37. Family Homes and Matrimonial Interests Land Law

Development of rules and procedures

37.1 Council has the power to enact Land Laws that apply during a conjugal relationship, when that relationship breaks down or on the death of a Spouse, respecting:

- a) The use, occupancy and possession of family homes on Wahnapiatae First Nation Land;
- b) The division of the value of any Interests held by Spouses in or to structures and Lands on Wahnapiatae First Nation Land; and
- c) The period of cohabitation in a conjugal relationship to qualify as a Common-Law Partnership.

Enactment of rules and procedures

37.2 The rules and procedures contained in family homes and matrimonial Interests Land Laws shall be developed by the Lands Committee in consultation with the Members.

Additional provisions

- 37.3 Family homes and matrimonial Interests Land Laws may include:
- a) Provisions for administering those Laws;
 - b) Despite subsection 89(1) of the *Indian Act*, provisions for enforcing, on Wahnapiatae First Nation Land, an order of a court or a decision made or an agreement reached under those laws; and
 - c) Procedures for amendment and repeal of those laws.

Notice of Land Laws

37.4 Council will provide, to the provincial Attorney General, notice of its intent to make family homes and matrimonial Interests Land Laws and, upon enactment, provide a copy of those Laws to the Attorney General.

Part 8

Dispute Resolution

38. Purpose

Intent

38.1 The intent of this part is to ensure that all persons entitled to possess, reside upon, use or otherwise occupy Wahnapiatae First Nation Land do so harmoniously with due respect to the rights of others and of Wahnapiatae First Nation and with access to Wahnapiatae First Nation procedures to resolve disputes.

Purpose

38.2 The purpose of these rules is to enable the parties to a dispute to achieve a just, speedy and inexpensive determination of matter in dispute, taking into account the values which distinguish dispute resolution from litigation.

39. Disputes

Dispute Prevention

39.1 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 conflict.

Disputes prior to Land Code

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

Decision of Council or Lands Committee

39.3 If a Member or non-Member with an Interest or Licence in Wahnapiatae 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.

Settle a Dispute

39.4 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.

Settlement Agreement

39.5 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.

Contractual Agreement

39.6 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.

Variation of Rules

39.7 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.

Civil Remedies

39.8 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.

Challenge to a Validity of Law

39.9 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.

40. Process

Staged Process

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

- a) Facilitated discussions;
- b) Negotiations;
- c) Mediation; and
- d) Final arbitration by the Dispute Resolution Panel.

Procedure to File a Dispute

40.2 A person who wishes to resolve a dispute with another person or Wahnapiatae First Nation in relation to the use or occupation of Wahnapiatae 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.

Termination of Processes

40.3 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.

Notice of Termination

40.4 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 not available

40.5 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 Wahnapiatae 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.

Duty of Fairness

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

- a) Treated fairly;
- b) Given an opportunity to present their case; and
- c) Given reasons for a decision made under this part.

Rules and Procedures

40.7 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;

- a) Facilitated discussions, negotiations, mediations, and arbitrations;
- b) Terms of office for panelists;
- c) Remuneration of facilitators, mediators, arbitrators, panelists, expert advisors, professionals, or other persons retained to assist in the resolution of disputes;
- d) Code of conduct for facilitators, mediators, arbitrators, panelists, expert advisors, professionals or other persons retained to assist in the resolution of disputes;
- e) Disclosure and confidentiality;
- f) Imposition of time limitations for submitting a notice of dispute and referring a matter or dispute to the panel;
- g) Implementing recommendations of the panel; and
- h) Any other matter necessary to give effect to this part.

Waiver of Liability

40.8 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 process, unless the act or omission is fraudulent or involves willful misconduct.

41. Roster Panel Established

Appointment to Roster Panel

41.1 The roster panel shall be composed of a maximum of twenty (20) panelists.

Ineligible

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

Representation

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

Rules of Roster Panel

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

42. Impartiality of the Dispute Resolution Panel

Duty to Act Impartially

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

Offence

- 42.2 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

- 42.3 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.

Rules of Conduct for Parties to a Dispute

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

43. Arbitration by the Dispute Resolution Panel

Disputes

- 43.1 Applications for resolution by the panel shall be submitted to the Lands Department.

Panel of Three Chosen from Roster Panel

- 43.2 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 be chosen by the Roster Panel as a whole.

Panel Established

- 43.3 The panel is hereby established with jurisdiction to resolve disputes in relation to Wahnapiitae First Nation Land.

Dispute Resolution Not Available

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

44. Powers of the Dispute Resolution Panel

Power of the Panel

- 44.1 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;
 - 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 Wahnapiatae First Nation Land, the registration of an Interest in Wahnapiatae First Nation Land, and the allocation of the costs of any incidental measures to be taken to give effect to such an order.

Recommendations by Panel

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

- 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 and Law is made in a manner consistent with this Land Code; or
 - a) Any other recommendation that it deems reasonable and necessary in the circumstances.

Interim Decisions

44.3 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 Wahnapiatae First Nation Land.

Professional Services

44.4 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

44.5 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.

Appeal of Decision

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

Part 9 Other Matters

45. Liability Liability Coverage Laws

45.1 Council may enact laws providing for limits on liability, defences and immunities to any person or entity in respect of any act or omission occurring in the exercise of a power or the performance of a duty under this Land Code or under a Land Law.

Liability Limitations

45.2 The limits on liability, defences and immunities in a land law shall be no greater than those that would apply to a person or entity performing a similar duty under the laws of the province.

Extent of Coverage

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

46. Offences

Application of the Criminal Code

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

46.2 Unless some other procedure is provided for by a Land Law, any person who commits an offence under this Land Code or under a Land Law is liable to a fine not to exceed five thousand dollars (\$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 Wahnapiatae First Nation environmental protection Laws may carry penalties consistent with similar environmental protection Laws in force in Canada.

47 Revisions to Land Code

Revisions

47.1 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 Wahnapiatae First Nation Land subject to this Land Code;
- 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 Wahnapiatae First Nation without changing the substance of this Land Code; and

- f) Corrections of editing, grammatical or typographical errors.

48. Commencement

Preconditions

- 48.1 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.
- 48.2 This Land Code shall take effect on the first day of the month following the certification of this Land Code by the Verifier.

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Appendix "A"

Description of the Wahnapiatae First Nation Land

Wahnapiatae Indian Reserve No. 11

Land Description of the extent of reserve lands that will be subject to the Land Code of the Wahnapiatae First Nation under the First Nations Land Management Act.

All those lands within the District of Sudbury, Province of Ontario, Canada, more particularly described as:

Wahnapiatae Indian Reserve No. 11 as shown on Plan 110890 Canada Lands Surveys Records (CLSR),

Having a total area of 1,069 hectares (2,642 acres) more or less.