

Wahnapitae First Nation Land Code

Community Session

January 27th, 2024

Timeline of Events

What's been done so far?



Land Code Development Committee

Land Code Development Committee

(October 2022)

- Council Portfolio Holder – Bob Pitfield
- WFN Member – Don Pakkala
- WFN Member – Jonathon Tulloch
- WFN Member – Roy Roque

Staff Support

- Lands and Resources Director – Anthony Laforge
- Lands and Resources Assistant – Katie Ede

Adhesion to Framework Agreement

- July 14, 2021
- Wahnapiatae First Nation, First Nations Land Management Resource Centre INC & Her Majesty the Queen in Right of Canada signed into the developmental
- phase funding agreement
- This gives us the opportunity to opt out of the Indian Act and resume jurisdiction over reserve lands and resources.



Timeline of Events

Implementation Document

- Signed the Implementation Document on July 10, 2014
- FN, ISC and LABRC agree on work plan to develop Land Code & Individual Agreement

Committee

- The Lands Committee has assumed this task
- Began review of model Land Code and Community Ratification Process

Timeline of Events



ENGLOBE

Environmental Site Assessment (ESA)



Phase I Environmental Site Assessment funding approval to successful candidate dated November 9, 2022.



Englobe Corp. was determined as the successful candidate.



Phase I Environmental Site Assessment began on reserve lands on November 28, 2022.



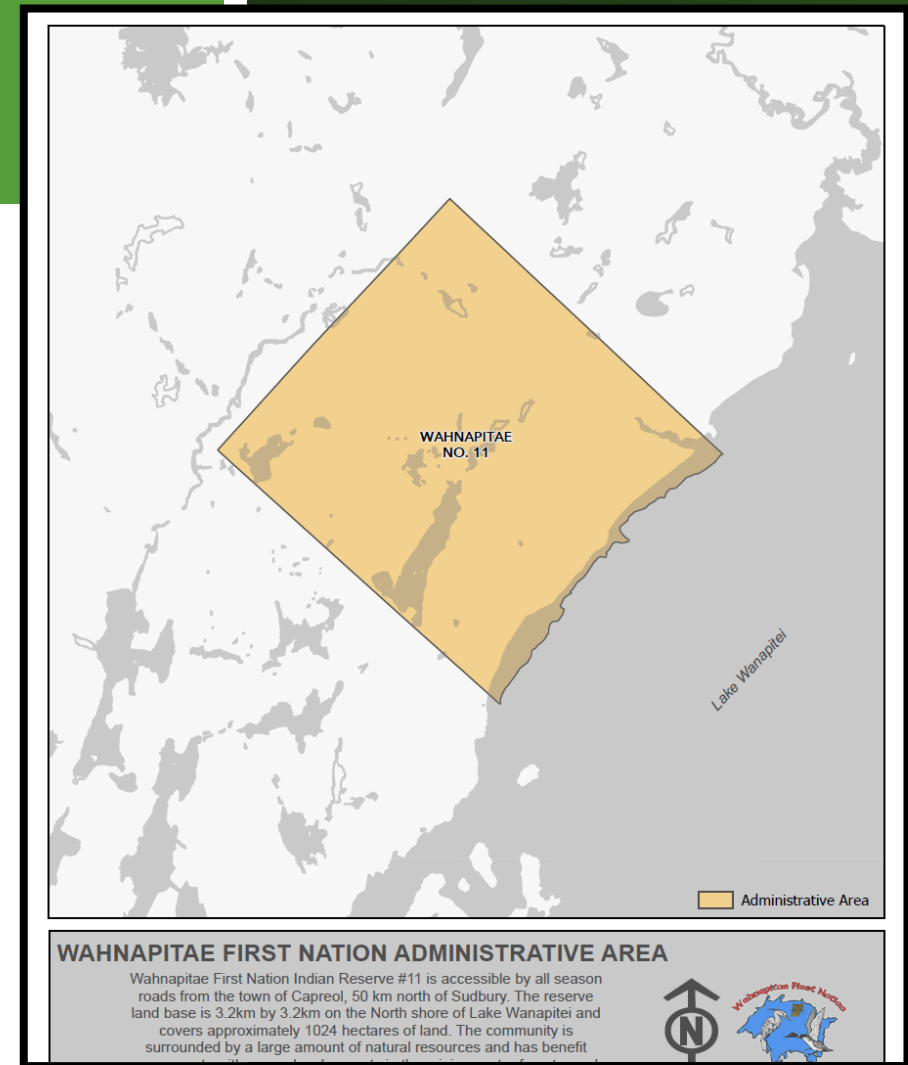
The Phase I ESA is now complete.



This will be included in the Individual Agreement.

Land Description Report (LDR)

- Research began in 2022, in progress.
- Does not affect Land Claim or ATR, only applies to what is known as reserve land today.
- Next steps:
- Survey Plan is reviewed/ approved by INAC, NRCan & FN
- Recorded in the Canada Lands Survey Records (CLSR)
- LDR is updated for comment/ approval by INAC and FN
- LDR is finalized and included in the Individual Agreement



Draft Land Code

Base document that is required based on the framework agreement. This is a live document that will be changed and modified based on member input

Draft

Wahnapitae First Nation Land Code



Preamble



EXPLAINS PURPOSE OF THE LAND
CODE AND A BRIEF HISTORY



REFERS TO THE *FRAMEWORK
AGREEMENT ON FIRST NATION LAND
MANAGEMENT* AND THE *FIRST
NATION LAND MANAGEMENT ACT*,
S.C. 1999, C.24



CANADA'S SPECIAL
RELATIONSHIP WITH
WAHNAPITAE FIRST NATION
CONTINUES

Part 1 Preliminary Matters

Definitions

for commonly used words used throughout the Land Code

Interpretation

provides context/ clarity for the reader

- Shall be interpreted in accordance with Wahnapiatae First Nation language, culture, traditions and customs
- Does not affect Aboriginal, Treaty or inherent rights or freedoms, now or in the future.

Authority to Govern

describes where Wahnapiatae First Nation's collective rights and responsibilities

Description of Land

Wahnapiatae First Nation reserve lands are described Lands can always be added (land claim, addition to reserve, etc.)

Part 2

First Nation Legislation

Law Making Powers

- describes what kinds of land-related laws can be made for:
- development, conservation, protection, management, use and possession

Law Making Procedure

- how laws are made
- proposed at Council Meeting in writing
- provided to First Nation Members & Lands Committee
- emergency laws

Publication of Land Laws

- Land Laws will be published in Council Meeting Minutes, at the Admin Office, and the website

Enforcement

Wahnapitae First Nation will be able to:

- establish offenses that are punishable on summary conviction
- Provide for fines, imprisonment, restitution, community service, etc.
- Establish procedures and land laws for enforcement
- Retain a prosecutor, appoint a Justice of the Peace, enter into an agreement with Ontario for a provincial prosecutor

Part 3 Community Meetings and Approvals

- **Participation**
 - every Wahnapiatae First Nation Member has the right to participate in meetings. Every Eligible Voter has the right to participate in the community approval process.
- **Community Meetings**
 - meetings will be held for adding lands, land laws, heritage/ enviro sensitive sites, etc.
- **Procedure at Meeting**
 - written notice of meeting posted publicly, in newsletter, and delivered by (e)mail
- **Community Approval**
 - is needed for:
 - any master land use plan
 - interest or licence in First Nation land longer than 35 years
 - non-renewable natural resource use longer than 5 years
 - deletion of a heritage site
 - voluntary exchange of land
 - any other Land Laws Council wishes to have community approval

Part 4

Protection of Land

- **Expropriation**
- Wahnapiatae First Nation will have the ability to expropriate but only after a good faith effort to reach mutual agreement.
- No expropriation can happen until a Land Law is made for the rights and procedures which requires community approval.
- Can only happen for necessary community works (fire hall, sewage, school, utilities, etc.)

Part 5

Accountability

Conflict of Interest

Wahnapitae First Nation's current Conflict of Interest Policy may be used with some extra land related sections here

Financial Management

Wahnapitae First Nation's current Financial Law/ Policy may be used with some extra land related sections here.

Annual Report

Wahnapitae First Nation will report only to the members, no more reporting to ISC

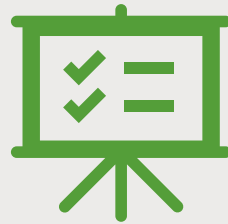


Part 6

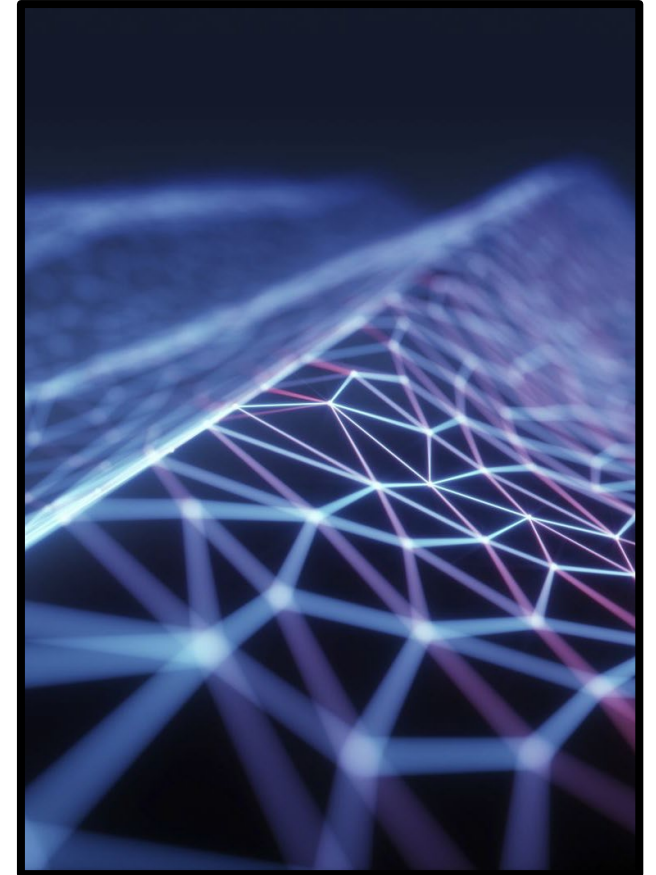
Land & Natural Resources Administration



day to day functions can be delegated to
the staff from Council



the New appointed Lands Committee will
continue with a new Terms of Reference
and take on additional responsibilities



Part 7

Interests and Licences in Land

Revenue

- Wahnapiatae First Nation can set the fees and rent for interests and licences in FN land. Payment will be made directly to First Nation, no Indigenous Services Canada (ISC) involvement.

Registration of Interests & Licences

- Filed in the First Nation Land Registry System

Separate FN Land Register

- Wahnapiatae will keep all original documentation

Limits on Interests and Licences

- Can make our own standards, criteria and forms

Existing Interests

- will continue as normal

New Interests or Licences

- can grant new interests (CP's, member allocations, leases, permits, easements, right of ways, etc.)
- can grant new licences for minerals, stone, sand, clay, soil, etc.

Part 7 con't Interests and Licences in Land

Interests of Non-Members

- any part of a lease or licence transferred to a non-member is only valid with a BCR from Council

Certificates of Interest

- any CP's previously issued continue as normal

Allocation of Land to Members

- only members can hold a permanent interest in First Nation land

Transfer and Assignments of Interests

- Members can freely transfer their interest to another member without council approval.

Mortgage and Seizures

- Sections 29, 87, 89(1) and (2) of the Indian act still apply
- Members can mortgage their interest (CP, lease etc.) with Council's written approval.



Part 7 con't Interests and Licences in Land

Mortgages and Seizures Continue

- if a lease mortgage defaults, it can only be possessed by chargee/ mortgagee (eg: bank), power of sale, etc. if it:
- had written approval from Council
- was registered in the First Nation Lands Registry System (FNLRs)
- reasonable opportunity was given to Council on behalf of First Nation to redeem it

Residency and Access Rights

- Wahnapiatae First Nations current residency code as adopted by membership will need to be revised to be coherent with land code during the implementation stage.

Transfers on Death

- ISC will continue to handle wills and estates.

Matrimonial Real Property

- Wahnapiatae First Nation will develop a law for the rules and procedures for the breakdown of a marriage. This will apply to:
 - Use and occupancy and possession of First Nation land
 - Division of interest in First Nation land
 - Division of value of improvements in First Nation land

Part 8

Dispute Resolution

Disputes

- members and non-members will be able to access the dispute resolution process of the Land Code

Processes

- facilitated discussion, mediation, negotiation, and arbitration by Dispute Resolution Panel

Roster Panel

- maximum of 20 panelists to be appointed representing various elements of the community



Part 8 con't

Dispute Resolution

Impartiality of Dispute Resolution Panel

- cannot act with bias or favour to any party to a dispute

Arbitration by Dispute Resolution Panel

- disputes will be heard by 3 of the roster panelists

Dispute Resolution Panel:

- 1 panelist chosen by each party to the dispute
- 1 panelist chose by those 2 panelists chose

Powers of Dispute Resolution Panel

- will hear the dispute and make the final decision
- decision is binding but subject to review by Federal Court (Trial Division)
- may obtain service of professionals



Part 9 Other Matters

Liability

- will have liability insurance for First Nation officers and employees to indemnify them against personal liability

Offenses

- summary conviction procedures of Part XXVII of the Criminal Code will apply to offenses under the Land Code and Land Laws unless First Nation creates some other procedure

Revisions to Land Code

- no ratification vote is required for:
- land description amendment
- wrong and expired clause referencing
- grammar and typographic errors
- minor improvement to language without changing substance

Commencement

- the Land Code and Individual Agreement will take effect if the community approves it



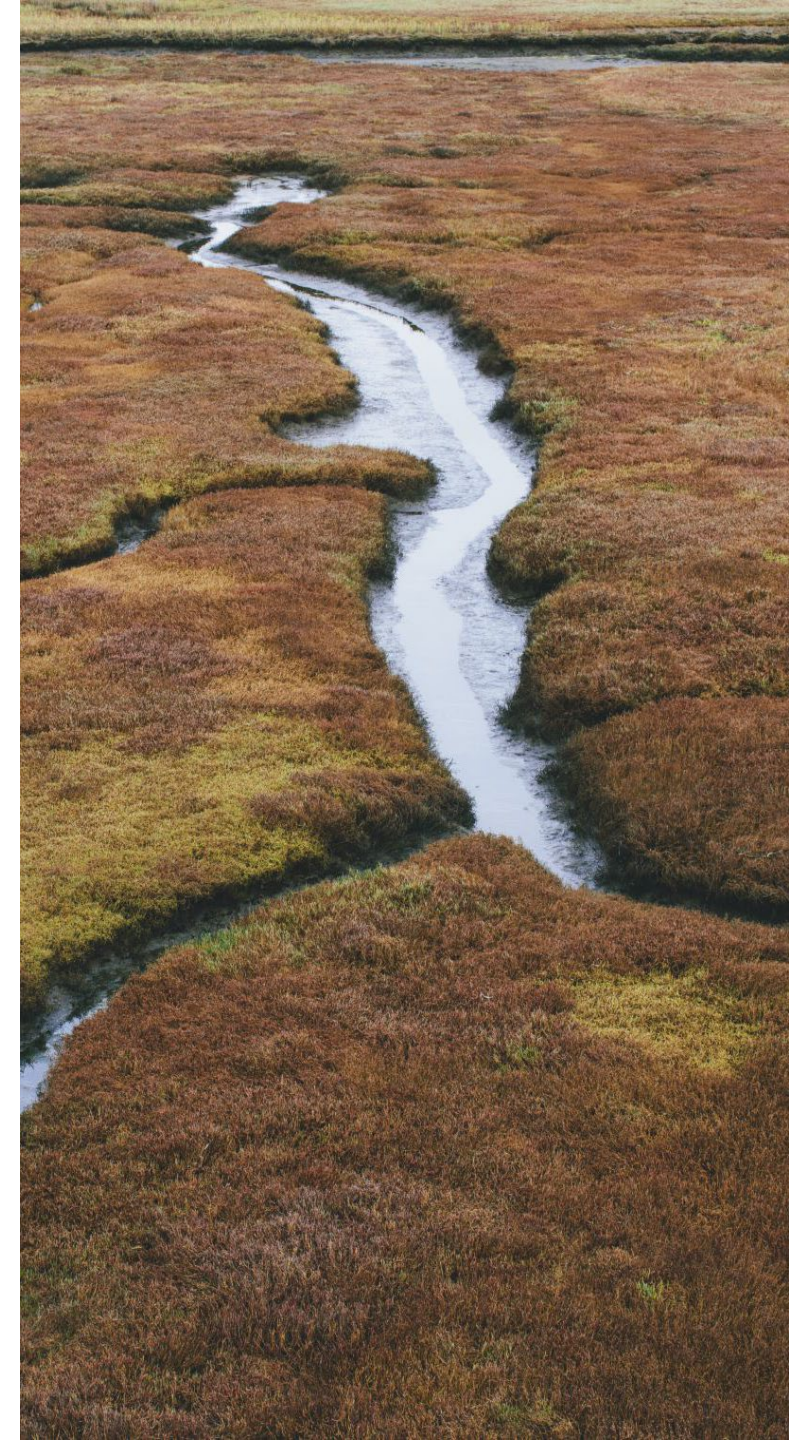
Important Facts



- Your Aboriginal Rights are not affected by Land Code
- A Land Code does not change any aboriginal, treaty, inherent rights or freedoms that pertain now or in the future to the Wahnapiitae First Nation or its Members
- A Land Code promotes better land management and accountability
- A Land Code removes us from 44 Indian Act Laws
- Members decide what's in the law and requires their approval to enact or change.
- With a potential ATR (Addition to Reserve) an existing Land Code and Laws automatically apply to proposed land once ATR lands become WFN reserve lands

Benefits of Land Code

- Huge Economic Development Impact
- Can acquire lands to make money from example: Lease Lands, Develop Industrial Buildings to rent, Develop New Businesses to establish potential Own Source Revenue for Wahnapiatae First Nation
- Land Governance are significantly faster under Land Code
- Land Code holds the same authority as the Indian Act in court
- Wahnapiatae First Nation will have control over lands
- Land Code will develop better opportunities and business ventures
- Land Code removes administrative hurdles that the Indian Act imposes on us as a First Nation
- Land Code is community driven with transparent development and accountability to staff, chief and council and members



Ratification Process

- A Community Land Code and Individual Agreement Ratification Process (Voting Procedure) has been developed and designed specifically for Land Code/Individual Agreement as prescribed in the framework agreement.
- This Process was submitted to Wahnapiatae Chief and Council for adoption.
- The Ratification date will be scheduled in accordance to the ratification process. (Spring 2024)

Ballot Question

- The target vote date is Spring 2024
- Methods of voting:
- In person
- Online
- Mail-in

Ballot Question (Sample Only)

Do you approve:

- The (Name) First Nation Land Code, dated for reference _____, 2016; and
- The Individual Agreement with Her Majesty the Queen in right of Canada, dated for reference _____, 2016?

EXPLANATION

A “YES” vote means that (Name) First Nation will manage its own reserve lands under the (Name) First Nation Land Code.

A “NO” vote means that (Name) First Nation lands will continue to be managed by Indigenous and Northern Affairs Canada under the *Indian Act*.



YES



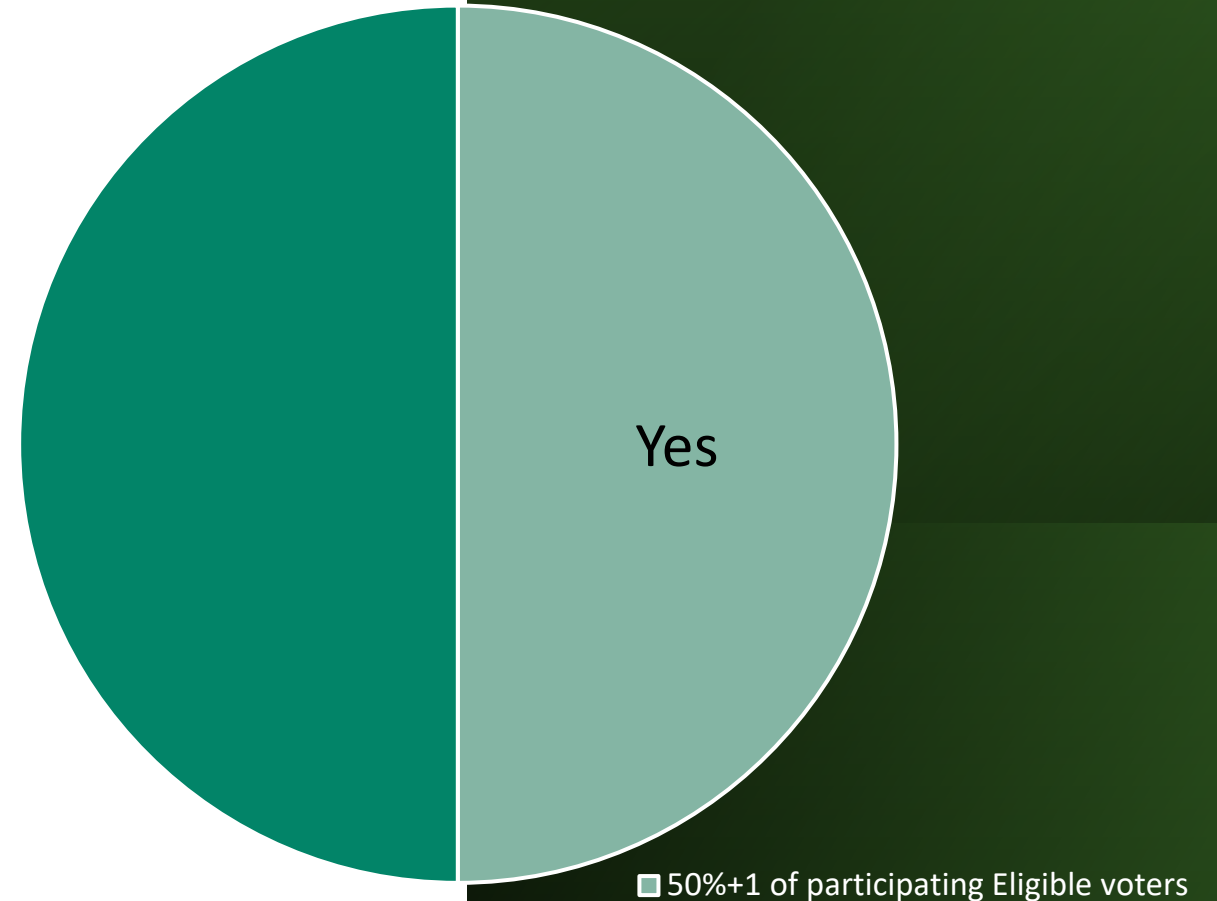
NO

Mark this Ballot by placing a cross (X) in one of the above boxes.

Land Code & Individual Agreement Ratification Vote

The Land Code and the Individual Agreement shall be approved if a majority of the participating Eligible Voters vote to approve them (50% +1) of quorum.

We are putting in every effort to locate and inform all of our Eligible Voters.



Independent Verifier

Richard Krehbiel, J.D

Qualifications (FA clause 44.4)

- Unbiased and free from conflict of interest

Knowledge or experience to act:

- Law degree 1987
- Adjunct Professor University of Northern BC
- Since 1999: Technician (11 Land Codes)

Verifier or A/Verifier (9 Land Codes)

Ratifications in progress: (13 Land Codes)

Independent Verifier Role

Richard Krehbiel, J.D

“Verify”

- That the proposed Land Code and community approval process document conform with the Framework Agreement and Framework Agreement on First Nations Land Management Act

Dispute Resolution

- Between First Nation and Canada (except funding)
- Challenges to the ratification vote

Monitor Ratification Process

- Fair opportunity for informed vote
- Third party notification
- Procedural amendments

Other Responsibilities

- Optional support to Ratification Officer
- Certify approved Land Code into Law
- Prepare Master file

Next Steps



Next Steps

Finalize DRAFT Land Code

- Continue Community meetings and input
- Legal review
- Appoint Verifier (Complete)
- Review by Verifier

Negotiate and Finalize Individual Agreement

- Includes Phase I ESA
- Finalize the legal land description report (reserve boundaries)
- Funding amount
- Technical aspects of transfer of authority

Miigwetch

Questions, Comments, Concerns?

We encourage all members to participate and to provide feedback, good or bad, so that we can work together to what is best for our lands, community and people now and into the future.

Anthony Laforge
Lands Director
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