

**MATSQUI FIRST NATION
LAND CODE**

Dated for Reference October 17, 2007

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PREAMBLE

WHEREAS the Matsqui First Nation has a profound spiritual relationship with the land;

AND WHEREAS the Matsqui First Nation wishes to enter into the Framework Agreement on First Nation Land Management with Canada, as amended and as ratified on behalf of the Government of Canada by the *First Nations Land Management Act*;

AND WHEREAS the traditional teachings of the Matsqui First Nation speak of the obligation of the people of the Matsqui First Nation to care for and respect the land and the magnificent wonders of Nature created on the land;

AND WHEREAS by enacting this Land Code, the Matsqui First Nation is re-assuming this special responsibility;

NOW THEREFORE THIS *MATSQUI FIRST NATION LAND CODE* IS HEREBY ENACTED AS THE FUNDAMENTAL LAND LAW OF THE MATSQUI FIRST NATION.

PART 1 PRELIMINARY MATTERS

1. Title

1.1 The title of this enactment is the *Matsqui First Nation Land Code*.

2. Interpretation

Definitions

2.1 In this Land Code:

“Act” means the *First Nations Land Management Act*, S.C. 1999, c. 24;

“Band Land” means First Nation Land in which all Members have a common interest and which is not subject to any individual interest;

“Common-law Marriage” means two individuals not married to each other that have lived together as Spouses for a period of not less than five years;

“Eligible Voter” means, for the purpose of voting in respect of land matters under this Land Code, a member who is eligible to vote under the Matsqui First Nation Custom Election Regulations and Procedures;

“First Nation” means the Matsqui First Nation;

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

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

“Framework Agreement” means the Framework Agreement on First Nation Land Management entered into between the Government of Canada and fourteen First Nations on February 12, 1996, as amended;

“Governing Body” means the Governing Body established under clause 2.1 of Appendix K of the Matsqui First Nation Custom Election Regulations and Procedures;

“Immediate Family” means, in respect of an individual, the individual’s parent, Spouse, sister, brother or child;

“Individual Agreement” means the Individual First Nation Agreement made

between the First Nation and Her Majesty in right of Canada in accordance with clause 6.1 of the Framework Agreement;

“Instrument” means a formal legal document;

“Land Code” means this *Matsqui First Nation Land Code*;

“Lands Committee” means the Matsqui Lands Committee established under section 14.1;

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

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

“Matsqui Lands Office” means the office established by the Governing Body to assist in the management and administration of First Nation Lands;

“Matsqui Lands Register” means the register of Matsqui First Nation Lands which is part of the First Nations Land Register established and maintained by Canada and held in the Registry at the National Capital Region;

“Meeting of Members” means a meeting under section 25;

“Member” means a person whose name appears on the Matsqui First Nation membership list;

“Minister” means the Minister of Indian Affairs and Northern Development;

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

“Ratification Vote” means a vote under section 26;

“Resolution” means a resolution of the Governing Body passed under this Land Code;

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

“Verifier” means a verifier appointed in accordance with clause 8.1 of the Framework Agreement; and

“Written Instrument” means an instrument in writing, in the approved form prepared by the Matsqui Lands Office, which purports to create, grant, assign or transfer an interest or licence in First Nation Lands or affect First Nation Lands.

2.2 In this Land Code:

- (a) the use of the word “will” 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 statute 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;
- (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;
- (g) where the time limited for the doing of an act expires or falls on a Saturday, a Sunday or a federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday;
- (h) where the time limited for the doing of an act in the Matsqui 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; and
- (i) 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.

Paramountcy

2.3 If there is an inconsistency between this Land Code and any other land enactment of the First Nation, this Land Code will prevail to the extent of the inconsistency.

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

Culture and Traditions

2.5 The structures, organizations and procedures established by or under this Land Code will be interpreted in accordance with the culture, traditions and customs of the First Nation, unless otherwise provided.

Language

2.6 The language of the First Nation, Halq'emeylem, may be used to clarify the meaning of any provision of this Land Code if the meaning of that provision is not clear in English.

Non-abrogation

2.7 This Land Code is not intended to abrogate or derogate from any aboriginal, treaty or other right or freedom that pertains now or in the future to the First Nation or to its Members.

Fair Interpretation

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

Fiduciary Relationships

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

Lands and Interests Included

2.10 A reference to “land” or “Land” in this Land Code is, unless the context otherwise requires, a reference to First Nation Land and all rights and resources in and of that land, including:

- (a) the water, beds underlying water, riparian rights, minerals and subsurface resources and all other renewable and non-renewable natural resources in and of that land to the extent that those resources are under the jurisdiction of Canada or the First Nation; and
- (b) interests and licences granted to the First Nation by Her Majesty in right of Canada as listed in the Individual Agreement.

3. Authority to Govern

Flow of Authority

3.1 The authority of the First Nation to govern its lands and resources flows from the Creator to the people of the First Nation, and from the people to the Governing Body according to the culture, traditions, customs and laws of the 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 First Nation Land and by which the First Nation will exercise authority over First Nation Land.

Ratification of Framework Agreement

- 4.2 The Framework Agreement is ratified by the First Nation when this Land Code is approved by the First Nation.

5. Description of First Nation Land

First Nation Land

- 5.1 The First Nation Land that is subject to this Land Code are the Indian reserves known as Reserve #1-Sahhacum, Reserve #2-Matsqui Main, Reserve #3-Three Islands and Reserve #4-Matsqui.

Additional Lands

- 5.2 The following lands may be made subject to this Land Code after the applicable conditions are met:
- (a) any reserve lands held jointly for the First Nation and another First Nation, where the First Nations agree upon a joint management scheme for those lands; and
 - (b) any land set apart by Canada in the future as lands reserved for the use and benefit of the First Nation within the meaning of subsection 91(24) of the *Constitution Act 1867* and subsection 2(1) of the *Indian Act*.

Land exchange

- 5.3 Section 5.2 does not apply to land acquired in accordance with section 29.

Inclusion of land or interest

- 5.4 When the relevant conditions in section 5.2 and 5.3 are met, the Governing Body will call a Meeting of Members and after receiving their input may by enacting a Law, declare the land or interest to be subject to this Land Code.

PART 2

FIRST NATION LEGISLATION

6. Law-Making Powers

Governing Body May Make Laws

- 6.1 The Governing Body may, in accordance with this Land Code, make Laws respecting:
- (a) development, conservation, protection, management, use and possession of First Nation Land;
 - (b) interests and licences in relation to First Nation Land;
 - (c) any matter necessary to give effect to this Land Code; and
 - (d) any matter necessary or ancillary to a Law respecting First Nation Land.

Examples of Laws

- 6.2 For greater certainty, the Governing Body may make Laws in relation to First Nation Land including:
- (a) regulation, control and prohibition of zoning, land use, subdivision control and land development;
 - (b) creation, regulation and prohibition of interests and licences in relation to First Nation Land;
 - (c) environmental assessment and environmental protection;
 - (d) provision of local services in relation to First Nation Land and the imposition of user charges;
 - (e) provision of services for the resolution, outside the courts, of disputes in relation to First Nation Land;
 - (f) enforcement of First Nation laws;
 - (g) regulation, control, authorization and prohibition of residency, access and the occupation of First Nation Land;
 - (h) authorization and regulation of subdivisions;
 - (i) conduct of surveys;
 - (j) setting aside and regulation of parks, parklands, and recreational lands;

- (k) setting aside and regulation of heritage lands and sacred sites;
- (l) rules and procedures for the receipt, management, expenditure, investment, and borrowing of moneys, and the establishment of administrative structures to manage such moneys;
- (m) creation of management and administrative bodies or agencies;
- (n) removal and punishment of persons trespassing upon First Nation Land or frequenting First Nation Land for prohibited purposes;
- (o) public nuisance and private nuisance;
- (p) regulation of sanitary conditions and the provision of sanitary services in private premises and public places;
- (q) instruction and maintenance of boundary and internal fences;
- (r) instruction, maintenance and management of roads, water courses, water diversions, storm drains, bridges, ditches and other local and public works;
- (s) regulation of traffic and transportation; and
- (t) fishing sites on First Nation Land.

7. Law-Making Procedure

7.1 The Governing Body will enact Laws under this Land Code in accordance with this Part.

Development of Laws

7.2 Development of a Law may be initiated by:

- (a) a Resolution, setting out the specific subject matter of the proposed Law;
or
- (b) a petition to the Governing Body signed by 30 percent of the Eligible Voters, setting out a request for development of a Law and the intended purpose and specific subject matter of the proposed Law.

Notice

7.3 Upon initiation of a proposed law, the Governing Body will provide notice to the Members of the subject matter of the proposed law and the general nature of the provisions to be included in the proposed Law.

7.4 Notice under section 7.3 will be provided by:

- (a) publication of a notice in the First Nation newsletter mailed to Eligible Voters at their last known address; or
- (b) by written notice, delivered or mailed to Eligible Voters at their last known address; and
- (c) posting of the notice in a public area of the First Nation administration offices.

7.5 Notice under section 7.3 will:

- (a) invite written comments from Members on the subject matter and content of the proposed Law; and
- (b) specify a date at least 20 days from the date of the notice for Members to provide comments under subsection (a).

Governing Body Shall Consider

7.6 Upon expiry of the time specified under section 7.5(b), the Governing Body will take into consideration any comments received, the needs of the community and other relevant matters and shall prepare a draft Law.

Consideration in Principle

7.7 The Governing Body will table the draft Law at a regular meeting of the Governing Body.

7.8 After considering the draft Law the Governing Body will by Resolution:

- (a) accept the draft Law in principle and set a return date for further consideration by the Governing Body;
- (b) reject the draft Law; or
- (c) direct further work on the draft Law and specify a return date for further consideration by the Governing Body.

Explanation for Rejection

7.9 Upon the request of any Eligible Voter, the Governing Body will explain its reasons for rejecting a draft Law.

Approval by Council

- 7.10 A Law is enacted if it is approved in writing by a quorum of the Governing Body on a return date set under section 7.8(a) or (c).

Coming into Force

- 7.11 A Law comes into force on the date of its enactment or such other date as may be specified by the Law.

Urgent Matters

- 7.12 The Governing Body may enact a Law without notice if the Governing Body is reasonably of the opinion that the Law is required urgently to protect First Nation Land or Members.

- 7.13 A Law enacted under section 7.12 shall be deemed to have been repealed and to have no force and effect as of 28 days after its enactment, but may be re-enacted in accordance with this Part.

- 7.14 Notwithstanding the provisions of the Matsqui First Nation Custom Election Regulations and Procedures For purposes of enacting a Law under section 7.12, the quorum for the Governing Body will consist of a seventy-five percent majority of the Governing Body.

8. Publication of Laws

Publication

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

Posting Laws

- 8.2 Within seven days after a Law has been enacted, the Governing Body will post a copy of the Law in the First Nation administration offices.

Registry of Laws

- 8.3 The Governing Body will cause to be kept, at the First Nation administration offices, a register of Laws containing the original copy of all Laws and Resolutions, including Laws and Resolutions that have been repealed or are no longer in force.

- 8.4 Any person may, during regular business hours at the First Nation administration offices, have reasonable access to the register of Laws.

Copies for Any Person

- 8.5 Any person may obtain a copy of a Law or Resolution upon payment of such reasonable fee as may be set by the Governing Body.
- 8.6 Section 8.5 does not preclude the Governing Body from making copies of a Law or Resolution available to Members without fee.

PART 3

FINANCIAL MANAGEMENT AND LAND ADMINISTRATION

9. Financial Management

Application

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

Establishment of Bank Accounts

- 9.2 The Governing Body will maintain one or more financial accounts in a financial institution and will deposit in those accounts:

- (a) transfer payments received from Canada for the management and administration of First Nation Land;
- (b) moneys received by the First Nation from the grant or disposition of interests or licences in First Nation Land including monies arising from natural resources;
- (c) all fees, fines, charges and levies collected under a Law or Resolution in relation to First Nation Land;
- (d) all capital and revenue moneys received from Canada from the grant or disposition of interests and licences in First Nation land; and
- (e) any other revenue received by the First Nation from First Nation Land.

- 9.3 The Governing Body will continue or implement a system of financial planning and financial administration for the management of First Nation moneys through which the Governing Body, First Nation employees and other persons who manage moneys in relation to First Nation Lands are accountable to Members within the meaning of clause 5.2(d) of the Framework Agreement.

Financial Policy

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

Signing Officers

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

Fiscal Year

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

Adoption of Budget

- 9.10 The Governing Body will, by Resolution, prior to the beginning of each fiscal year, adopt a land management budget for that fiscal year and may, if the Governing Body deems it necessary in the course of the fiscal year, adopt one or more supplementary budgets for that fiscal year.
- 9.11 Prior to adopting a budget referred to in section 9.10, the Governing Body will consult with the Lands Committee.

Procedure

- 9.12 After adopting a land management budget or supplementary budget, the Governing Body will as soon as practicable:
- (a) present the budget or supplementary budget to the Members at a general Matsqui Band meeting; and
 - (b) make a copy of the budget or supplementary budget available at the First Nation administration offices for inspection by Members during regular business hours.

If No Budget

- 9.13 If the Governing Body fails to adopt a land management budget for a fiscal year prior to the beginning of that fiscal year, the budget and any supplementary

budget of the previous fiscal year will apply until another budget is adopted.

Expenditures

- 9.14 The Governing Body may not expend moneys related to First Nation Land or commit, by contract or otherwise, to expend moneys related to First Nation Land unless the expenditure is authorized under a Law or an adopted budget.

Determination of Revenues

- 9.15 The Governing Body may establish a process for determining:
- (a) fees and rent for interests and licences in First Nation Land; and
 - (b) fees for services provided in relation to First Nation Land and compliance with this Land Code.

10. Financial Records

Financial Records

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

Offences

- 10.2 Any person who has control of the financial records of the First Nation and who:
- (a) impedes or obstructs anyone from exercising a right to inspect those records; or
 - (b) fails to give all reasonable assistance to anyone exercising a right to inspect those financial records,
- is guilty of an offence under this Land Code.

Preparation of Financial Statement

- 10.3 Within 90 days after the end of each fiscal year the Governing Body will prepare a financial statement in comparative form containing:
- (a) a balance sheet;
 - (b) a statement of revenues and expenditures and a comparison of these with the amounts stated in the land management budget and any supplementary budget; and
 - (c) any other information necessary for a full and fair presentation of the financial position of the First Nation in relation to First Nation Land.

Consolidated Accounts

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

11. Audit

Appointment of Auditor

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

Vacancy in Office

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

Remuneration

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

Duty of Auditor

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

Access to Records

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

Presentation of Auditor's Report

- 11.7 The Governing Body will present the auditor's report at a Meeting of Members.

12. Annual Report

Publish Annual Report

12.1 The Governing Body will prepare and table an annual report on First Nation Land management.

12.2 The annual report will include:

- (a) an annual review of First Nation Land management activities;
- (b) a copy and explanation of the audit report as it applies to First Nation Lands; and
- (c) such other matters as may be directed by the Governing Body.

13. Access to Financial Information

Copies for Members

13.1 A Member may, during normal business hours at the First Nation administration offices, have reasonable access to:

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

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

14. Lands Committee

Lands Committee Established

14.1 A Lands Committee is hereby established to:

- (a) assist with the development of a First Nation Land administration system;
- (b) advise the Governing Body and First Nation staff on matters respecting First Nation Land;
- (c) recommend to the Governing Body Laws, Resolutions, policies and procedures respecting First Nation Land;
- (d) hold regular and special meetings of Members to discuss First Nation Land issues and make recommendations to the Governing Body on the resolution of such issues;
- (e) assist in the exchange of information regarding First Nation Land matters between Members and the Governing Body;

- (f) oversee community consultations under this Land Code; and
- (g) perform such other duties and functions as the Governing Body may direct.

Development of Land Related Rules and Procedures

14.2 Within a reasonable time after this Land Code takes effect, the Governing Body will, in consultation with the Members, establish rules and procedures to address the following matters:

- (a) environmental protection and environmental assessment;
- (b) resolution of disputes in relation to First Nation Land;
- (c) land use planning and zoning; and
- (d) section 40 respecting spousal property.

Implementation of Policies

14.3 Rules and procedures developed in accordance with section 14.2 will be given full and fair consideration by the Governing Body for implementation as Laws, policies or amendments to this Land Code.

Internal Procedures

14.4 The Governing Body may:

- (a) establish rules and procedures for the conduct of meetings and general affairs of the Lands Committee;
- (b) establish policies for the remuneration and recovery of expenses incurred by Lands Committee members; and
- (c) establish programs for the orientation and education of Lands Committee members.

14.5 The Governing Body will consult with the Lands Committee in the implementation of section 14.4.

15. Lands Committee Membership

Composition

15.1 The Lands Committee will be comprised of a minimum of five Eligible Voters.

Eligibility

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

Appointment of Land Management Committee Members

- 15.3 The members of the Lands Committee will consist of:
- (a) at least one member of the Governing Body; and
 - (b) up to an additional nine Members, some or all of whom may be Governing Body Members, all of whom will be appointed by the Governing Body.
- 15.4 The Governing Body will enact a Law to establish the procedure for selection of Lands Committee members, including such transitional rules as may be necessary for the members of the first Lands Committee.
- 15.5 A Law enacted under section 15.4 will include:
- (a) a process for providing notice to Members that appointments will be made to the Lands Committee and offering Members an opportunity to apply for such appointments; and
 - (b) standards and criteria for appointment to the Lands Committee.

Term of Office and Vacancy

- 15.6 A member of the Lands Committee will serve in office until that member:
- (a) resigns in writing;
 - (b) becomes ineligible to hold office under section 15.2 or 15.3(a);
 - (c) ceases to be a Member;
 - (d) is absent from three consecutive meetings of the Lands Committee for a reason other than permitted by the Lands Committee; or
 - (e) dies or becomes mentally incompetent.

Filling of Vacancy

- 15.7 Where the office of a member of the Lands Committee becomes vacant, the

vacancy will be filled in accordance with section 15.3.

16. Chair of the Lands Committee

Chair

16.1 The member of the Lands Committee appointed under section 15.3(a) will be the Chair of the Lands Committee.

Co-chair

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

Alternate

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

Duties of the Chair

16.4 The duties of the Chair are to:

- (a) chair meetings of the Lands Committee;
- (b) ensure that financial statements relating to the activities of the Lands Committee, including any applicable revenues and expenditures concerning First Nation Lands, are prepared and tabled with the Governing Body;
- (c) report to the Governing Body and the Members on the activities of the Lands Committee;
- (d) monitor the presentation of the audited annual financial statements under section 11.7; and
- (e) perform such other duties as the Governing Body or the Lands Committee may reasonably prescribe.

17. Matsqui Lands Office

Administration

17.1 The Governing Body will perform all the duties and functions, and exercise all the powers, of the First Nation that are not specifically assigned to any other person or body established under this Land Code.

17.2 The Matsqui Lands Office shall carry out duties and responsibilities delegated or assigned to it pursuant to this Part or by First Nation Law.

17.3 Without limiting the generality of the duties and responsibilities of the Matsqui Lands Office, it shall:

- (a) administer First Nation Land in accordance with this Land Code and Matsqui First Nation Law;
- (b) prepare forms of Written Instruments for use in registering or recording interests or licences in First Nation Lands where deemed necessary and advisable by the Matsqui Lands Office;
- (c) prepare forms of Written Instruments for use in registering or recording instruments which affect, or purport to affect, First Nation Lands where deemed necessary and advisable by the Matsqui Lands Office;
- (d) receive Written Instruments sought to be registered or recorded in the Matsqui Lands Register;
- (d) review Written Instruments sought to be registered or recorded in the Matsqui Lands Register;
- (e) review Written Instruments for technical compliance with the Land Code, Matsqui First Nation Law and other applicable laws or policies;
- (f) arrange for the execution of Written Instruments and related documentation on behalf of the First Nation, the Minister and Her Majesty the Queen in right of Canada;
- (g) arrange for the registration or recording of Written Instruments in the Matsqui Lands Register;
- (h) maintain and protect records in relation to First Nation Lands;
- (i) prepare and present regular reports to the Governing Body; and
- (j) carry out such duties as are requested or required by the Governing Body consistent with this Land Code, First Nation Law and other applicable law.

Lands Manager

17.4 The Lands Manger shall oversee the day-to-day operations of the administration of First Nation Land and perform such duties and responsibilities consistent with

this Land Code and First Nation Law.

- 17.5 Without limiting the generality of sections 17.3 and 17.4, the Lands Manager or his or her designate appointed in writing, shall:
- (a) execute such Written Instruments and carry out any action required to be taken by and on behalf of the Minister or Her Majesty the Queen in right of Canada in relation to an interest or licence in First Nation Lands;
 - (b) carry out any action that was required to be taken by the Minister or Her Majesty the Queen in right of Canada in relation to an interest or licence described in section prior to the date this Land Code comes into force; and
 - (c) manage the Matsqui Lands Office;
 - (d) present proposed Laws to the Members; and
 - (e) carry out any action or responsibility delegated to the Lands Manger pursuant to section 17.2.

Delegation

- 17.6 Despite section 17.1 the Governing Body may delegate administrative authority in relation to a Law enacted under section 7.1 to an individual or a body established or authorized under this Land Code.

18. Registration of Interests and Licences

Matsqui Lands Register

- 18.1 An interest or licence in First Nation Land created or granted after this Land Code comes into effect is not enforceable unless it is registered or recorded in the Matsqui Lands Register.

Registration of Consent or Approval

- 18.2 No instrument that requires the consent of the Governing Body or approval of the Lands Committee may be registered or recorded in the Matsqui Lands Register unless a certified copy of the document that records the consent or approval is attached to the instrument.

Duty to Deposit

- 18.3 An interest or licence in Matsqui Lands may only be created, granted, assigned or transferred by Written Instrument in accordance with this Land Code.

- 18.4 No person may acquire an interest or licence in Matsqui Lands by use, occupation or any other means not authorized either pursuant to this Land Code or by Matsqui Law.
- 18.5 No Written Instrument is valid nor shall it be forwarded to the First Nation Lands Registry for registration or recording unless it has first been submitted to the Lands Manager or his or her designate at the Matsqui Lands Office. Only the Matsqui Lands Office may submit a Written Instrument or an instrument described in section 19.8 for registration or recording in the First Nation Lands Registry.
- 18.6 The Governing Body will ensure that a copy of the following is kept at the Matsqui Lands Office:
- licence
- (c) a land use plan or subdivision plan; and
- (d) this Land Code and any amendment to this Land Code.
- 18.7 The Governing Body may enact a Law providing for maintenance of the Matsqui Lands Register in such other land registry system or facility as may meet the requirements of the Matsqui Lands Register.

19. First Nation Lands Register

- 19.1 Interests or licences in, and registrable instruments with affect, or purport to affect, First Nation Lands shall be registered or recorded in the Matsqui Lands Register.
- 19.2 Notwithstanding section 19.1 only those instruments that are in compliance with this Land Code can be registered or recorded in the Matsqui Lands Register.
- 19.3 A copy of all Written Instruments will be kept at the Matsqui Lands Office that are submitted for registration or recording in the Matsqui Lands Register.
- 19.4 Subject to this section, the Act and any regulation passed pursuant to the Act, the Matsqui Lands Register shall be administered in the same manner as the Reserve Land Register established under the *Indian Act*.
- 19.5 The Matsqui Lands Register shall accommodate the registration and recording of interests or licences not accommodated specifically by the *Indian Act*, in accordance with criteria or procedures to be agreed upon by Canada and the Governing Body.
- 19.6 Transactions dealing with interests or licences in Matsqui Lands shall be filed with the Matsqui Lands Office and once verified as technically complying with

this Land Code and Matsqui Law shall be forwarded to the Matsqui Lands Register for registration or recording.

- 19.7 Financial claims or other assertions of right which affect, or purport to affect, First Nation Land may, in accordance with Matsqui Law and other applicable law, be recorded in the Matsqui Lands Register subject to the approval of the form and content of same by the Matsqui Lands Office.
- 19.8 The types of instruments which may be recorded in the Matsqui Lands Register under section 19.7 include, but are not limited to, instruments relating to:
- (a) Judgments;
 - (b) Court Orders;
 - (c) Rights of First Refusal;
 - (d) Certificates of Pending Litigation;
 - (e) Caveats;
 - (f) Liens;
 - (g) Assignments of Rent;
 - (h) Options to Purchase; and
 - (i) Tax certificates.

The recording of such instruments, or other instruments, is subject to approval by the Lands Manger and the Registrar of the First Nations Land Registry.

20. Date of Grant or Transfer of Interests or Licences

- 20.1 The grant, transfer or other disposition of an interest or licence in First Nation Lands shall be effective on the date the documents are registered or recorded in the Matsqui Lands Registry.
- 20.2 An interest or licence in First Nation Lands is not enforceable unless it is registered or recorded in the Matsqui Lands Registry. This section is not meant to preclude *in personam* rights or causes of action that may be pursued by one part as against another party for a claim in relation to an interest in First Nation Lands.

- 20.3 Subject to section 20.6, registered or recorded interests or licences that affect the same parcel of First Nation Land have priority according to the time and date of their registration and not according to the time and date of their execution.
- 20.4 A registered interest affecting First Nation Land is entitled to priority over an unregistered interest affecting the same parcel of First Nation Land.
- 20.5 A registered mortgage has a priority over a subsequently registered interest that affects the same parcel of First Nation Land, to the extent of the money actually advanced under the mortgage, to a maximum of the amount secured by the Mortgage, even if all or part of the money was advanced after the registration of the subsequently registered interest.
- 20.6 (a) The holder of a registered interest, or a person applying to register an interest, may apply to register or record a postponement agreement that gives priority over the registered interest to a specified interest that was, or is to be, subsequently registered.
- (b) On the registration or recording of a postponement agreement, priority shall be accorded to the interests referred to in the agreement in the manner provided for in the agreement.

21. Surveys

- 21.1 The Governing Body may cause surveys to be made of First Nations Lands in accordance with the *Canada Lands Surveys Act* and the *Canada Lands Surveyors Act*.
- 21.2 The holder of an interest or licence in First Nation Lands may cause surveys to be made of those lands in accordance with the *Canada Lands Surveys Act* and the *Canada Lands Surveyors Act*.
- 21.3 All surveys of First Nation Lands prepared by the Surveyor General of Canada or his or her designate shall be deemed for all purposes to accurately describe and identify the boundaries of the lands covered by such survey.
- 21.4 All surveys respecting First Nation Lands only become effective upon registration or recording in the Matsqui Lands Registry.

PART 4 CONSULTATION AND MEMBER APPROVALS

22. Rights of Eligible Voters

Rights of Eligible Voters

22.1 An Eligible Voter may vote in a Ratification Vote.

23. Approval by Eligible Voters

Approval

23.1 Approval by majority vote of Eligible Voters who attend a Meeting of the Members must be obtained for:

- (a) a land use plan;
- (b) amendment of a land use plan;
- (c) a grant or disposition of an interest or licence in First Nation Land for a term exceeding 49 years;
- (d) renewal of a grant or disposition of an interest or licence in First Nation Land for a term exceeding 49 years, or that would have the effect of extending the original grant or disposition for a term exceeding 49 years;
- (e) a grant or disposition of natural resources on First Nation Land exceeding a term of one year;
- (f) a Law enacted under section 38; and
- (g) any Law or class of Law that Governing Body, by Resolution, declares to be subject to this section.

23.2 The Governing Body may establish policies and procedures for:

- (a) approvals under section 23.1, including timelines for decision-making; and
- (b) regular review of grants or dispositions issued under sections 23.1(c) to 23.1(f).

24. Member Consultation

Meeting with Committee and Elders

24.1 Prior to approving a draft Law under section 7.10, the Governing Body will call a Meeting of Members to receive input in respect of:

- (a) a land use plan;
- (b) a subdivision plan;

- (c) declaring land or an interest in land referred to in section 5.2 or 5.3 to be subject to this Land Code;
- (d) heritage land;
- (e) environmentally sensitive property;
- (f) environmental assessment;
- (g) spousal property under section 40; and
- (h) any other matter or class of matters that Governing Body by Resolution declares to be subject to this section.

Process to Implement Laws

- 24.2 The Governing Body will, within a reasonable time after this Land Code takes effect-develop and implement the Laws referred to in section 24.1.
- 24.3 Nothing in this Land Code precludes the Governing Body from consulting with other advisors or representatives of other jurisdictions, including other first nations, municipal corporations and regional districts.

25. Meeting of Members

Notice of Meeting

- 25.1 The Governing Body will give written notice of a Meeting of Members that:
 - (a) specifies the date, time and place of the meeting; and
 - (b) contains a brief description of the matters to be discussed at the meeting.

Manner of Notice

- 25.2 Written notice of a Meeting of Members under section 25.1 will be given by:
 - (a) posting the notice in public places on First Nation Land at least 21 days before the meeting;
 - (b) mailing the notice to Members at least 21 days before the meeting; and
 - (c) such additional methods as Governing Body may consider appropriate.

26. Ratification Votes

Approval by Ratification Vote

- 26.1 Approval by a Ratification Vote must be obtained for:
- (a) voluntary exchange of First Nation Land under section 29;
 - (b) amendment of this Land Code;
 - (c) expropriation of a Member's interest under Part 5; and
 - (d) enactment of a Law or class of Laws that the Governing Body by Resolution declares to be subject to this section.

Individual Agreement with Canada

- 26.2 For greater certainty, an amendment to, or renewal of, the Individual Agreement will not require approval by a Ratification Vote unless the amendment or renewal reduces the amount of funding provided by Canada.

Ratification Process

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

Minimum Requirements for Approval

- 26.4 A matter will be approved by a Ratification Vote if a majority of the Eligible Voters participates in the vote and at least a majority of the participating Eligible Voters cast a vote in favour of the matter.

No Verifier

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

PART 5 PROTECTION OF LAND

27. Expropriation by First Nation

Rights and Interests That May Be Expropriated

- 27.1 An interest in First Nation Land or in any building or other structure on that land may be expropriated by the First Nation in accordance with the Framework Agreement and any Law enacted under section 27.3 of this Land Code.

Community Purposes

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

Expropriation Law

27.3 The Governing Body will enact a Law respecting the rights and procedures for expropriations, including provisions in respect of:

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

Public Report

27.4 Before the First Nation expropriates an interest, the Governing Body will:

- (a) prepare a report on the reasons for the expropriation;
- (b) post a copy of the report in the First Nation administration offices; and
- (c) mail a copy of the report to each Eligible Voter at their last known address.

Acquisition by Mutual Agreement

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

Approval by Ratification Vote

27.6 An expropriation of a Member's interest, where the Member and the Governing Body have not agreed to the expropriation, has no effect unless the proposed expropriation receives prior approval by a Ratification Vote.

Compensation for Rights and Interests

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

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

Compensation Calculation

27.8 The total value of compensation payable under section 27.8(b) will be based on:

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

Market Value

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

Neutral Evaluation to Resolve Disputes

27.10 Subject to section 27.13, the resolution of a dispute concerning the right of the First Nation to expropriate will be determined by neutral evaluation in the same manner as provided in Part IX of the Framework Agreement.

27.11 The 60 day period referred to in clause 33.6 of the Framework Agreement will be applied, as appropriate in the circumstances, by the neutral evaluator.

Arbitration to Resolve Disputes

27.12 The resolution of the following disputes will be determined by arbitration in the same manner as provided in Part IX of the Framework Agreement:

- (a) a dispute concerning the right of the holder of an expropriated interest to compensation; and
- (b) a dispute concerning the amount of compensation.

28. Heritage Land

Governing Body Approval

- 28.1 Development will be permitted on a site designated as heritage land under a First Nation Land use plan only if the proposed development receives approval in writing by a quorum of the Governing Body.
- 28.2 Section 28.1 applies to any lands designated as sacred lands by the Governing Body.

29. Voluntary Land Exchange and Protection

Conditions for a Land Exchange

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

No Effect

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

Land to be Received

- 29.3 A land exchange may proceed to a Ratification Vote only if the land to be received by the First Nation:
- (a) is of equal or greater area than the First Nation Land to be exchanged; or
 - (b) is of a value comparable to the appraised value of the First Nation Land to be exchanged. and
 - (c) is eligible to become a reserve under the *Indian Act* and First Nation Land subject to this Land Code.

Negotiators

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

Additional Compensation

- 29.5 The First Nation may receive additional compensation, including money or other land in addition to the land referred to in section 29.3.

29.6 Such other land may be held by or on behalf of the First Nation in fee simple or otherwise.

Federal consent

29.7 The First Nation may conclude an agreement for a land exchange provided that the agreement contains a condition subsequent that, the Governing Body must receive a written statement from Canada stating that Her Majesty in right of Canada:

- (a) has agreed to set apart as a reserve the land to be received in the land exchange, as of the date of the land exchange or such later date as the Governing Body may specify by Resolution; and
- (b) consents to the form of the land exchange as set out in the land exchange agreement.

Information to Members

29.8 At such time as negotiation of a land exchange agreement is concluded, and at least 21 days before the Ratification Vote provided for in section 29.2, the Governing Body will provide the following information to Members:

- (a) a description of the First Nation Land to be exchanged;
- (b) a description of the land to be received by the First Nation;
- (c) a description of any additional compensation to be received;
- (d) a report of a certified land appraiser stating that the conditions in sections 29.3(a) and (b) have been met;
- (e) a copy of the land exchange agreement; and
- (f) a copy of the statement referred to in section 29.7.

Process of Land Exchange

29.9 A land exchange agreement will provide that:

- (a) the other party to the exchange will transfer to Canada the title to the land that is to be set apart as a reserve;
- (b) the Governing Body will pass a Resolution authorizing Canada to transfer title to the First Nation Land being exchanged, in accordance with the land exchange agreement; and

- (c) a copy of the instruments transferring title to the land will be registered in the Matsqui Lands Register.

PART 6 CONFLICT OF INTEREST

30. Conflict of Interest

Application of Rules

30.1 Section 30.2 applies to:

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

Duty to Report and Abstain

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

- (a) disclose the interest to the Governing Body, employment supervisor, board, committee or other body;
- (b) take no part in any deliberations on the matter; and
- (c) take no part in any vote on the matter.

Common Interests

30.3 Section 30.2 does not apply to an interest that is held by a Member in common with every other Member.

Meeting of Members

30.4 If the Governing Body is unable to vote on a proposed Law or Resolution due to a conflict of interest, the Lands Manager may refer the matter to a Meeting of Members and, if a quorum of Eligible Voters is present, a majority of the Eligible

Voters present at the meeting may enact the Law or Resolution.

Inability to Act

- 30.5 If a board, committee or other body is unable to act due to a conflict of interest, the matter will be referred to the Governing Body and the Governing Body may decide the matter.

Disputes

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

PART 7 INTERESTS AND LICENCES IN LAND

31. Limits on Interests and Licences

All Dispositions in Writing

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

Standards

- 31.2 The Governing Body may, after full and fair consideration of any recommendations made by the Lands Committee, establish mandatory standards, criteria and forms for creating, granting and disposing of interests and licences in First Nation Land.

Improper Transactions Void

- 31.3 A deed, lease, contract, document, agreement or instrument of any kind by which the First Nation, a Member or any other person purports to create, grant, dispose of, assign or transfer an interest or licence in First Nation Land after the date this Land Code comes into effect is void if it contravenes this Land Code.

Non-Members

- 31.4 A person who is not a Member may hold a lease or licence in First Nation Land.

Grants to Non-Members

- 31.5 The written consent of the Governing Body is required in any grant or disposition of a lease or licence in First Nation Land to a person who is not a Member.

32. Existing Interests

Continuation of Existing Interests

- 32.1 An interest or licence in First Nation Land, whether held by a Member or a person other than a Member, that is in effect when this Land Code comes into effect will, subject to this Land Code, continue in force in accordance with the terms and conditions of that interest or licence.

Cancellation or Forfeiture of Interests or Licences

- 32.2 Except as otherwise provided in this Land Code, First Nation Law or by operation of law no interest or licence in First Nation Lands may be cancelled or forfeited unless:
- (a) all parties to the relevant Written Instrument have consented in writing to the cancellation or forfeiture as the case may be;
 - (b) a court of competent jurisdiction has ordered the cancellation or forfeiture of the interest or licence and the time period for filing an appeal of the order has passed without an appeal having been taken; or
 - (c) an arbitrator or other person appointed to adjudicate a dispute pursuant to the Written Instrument in issue has ordered or declared the interest or licence to be cancelled or forfeited and no appeal has been taken from the decision within the allotted time.
- 32.3 Notwithstanding section 30.2 no interest or licence in First Nation Lands may be cancelled or forfeited if it will adversely affect:
- (a) An interest or licence in those First Nation Lands held by a third party; or
 - (b) a claim against, or interest or licence in, those First Nation Lands held by the First Nation.
- 32.4 If an interest or licence in First Nation Lands is cancelled or forfeited under section 30.2 the Matsqui Lands Register will be amended or rectified accordingly.

licence

33. New Interests and Licences

Authority to Make Dispositions

- 33.1 Subject to this Land Code, the Governing Body may grant:
- (a) interests and licences in First Nation Land; and

- (b) permits and licences to take resources from First Nation Land.

Conditional Grant

- 33.2 The grant of an interest, licence or permit under section 33.1 may be made subject to conditions.

Types of Interests and Licences

- 32.3 The types of interests or licences in First Nation Lands are:

- (a) leaseholds;
- (b) easements;
- (c) permits; and
- (d) mortgages.

34. No Lawful Possession

Prohibition of Permanent Interests

- 34.1 No member shall be allocated First Nation Land in perpetuity nor be granted an interest in First Nation Land equivalent to that set forth in subsection 20(1), (2) and (3) of the *Indian Act*.

35. Leases and Allocation to Members

Leases and allocations to Members

- 35.1 The Governing Body may enact Laws providing for the leasing of available First Nation Land to Members for residential, commercial or other purposes.
- 35.2 No residential lot will be allocated to any person including a Member
- 35.3 A residential house may only be allocated by the Governing Body to a Member.

36. Transfer and Assignment of Interests

Transfer of Interests

- 36.1 The Governing Body may enact Laws providing that a Member holding a leasehold interest in First Nation Land may transfer, devise or otherwise dispose of that leasehold interest to another Member.
- 36.2 Except for transfers that occur by operation of Law, including transfers of estates by testamentary disposition or in accordance with a Law enacted under section

37:

- (a) there will be no transfer or assignment of an interest in First Nation Land without the written consent of the Governing Body; and
- (b) the grant of an interest is deemed to include section 36.2(a) as a condition of any subsequent transfer or assignment.

37. Limits on Mortgages and Seizures

Protections

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

Mortgage of Member's Interest

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

Mortgages of Leasehold Interests with Consent

37.3 A leasehold interest may be subject to a charge or mortgage only with the written consent of the Governing Body.

Default in Mortgage of Leasehold

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

- (a) the charge or mortgage received the written consent of the Governing Body;
- (c) the charge or mortgage was registered in the Matsqui Lands Register; and
- (d) a reasonable opportunity to redeem the charge or mortgage was given to the First Nation.

Power of Redemption

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

38. Residency and Access Rights

Civil Remedies

38.1 Subject to a Law enacted under section 6.2(n) all civil remedies for trespass are preserved.

No Obligation on the First Nation

38.2 A right of residence or access does not imply any financial obligation on the part of the First Nation.

No Liability on the First Nation

38.3 No liability is imposed upon the First Nation in respect of any person exercising a right of access in accordance with this Land Code for injuries or damages suffered on account of the condition or state of First Nation Land.

39. Transfer on Death

39.1 A Member who claims to be entitled to possession of a house First Nation Land by devise or descent in accordance with the provisions of the *Indian Act* relating to the estate of an Indian is not entitled to lawful possession of that house unless the Member has filed with the Governing Body, an instrument in a form prescribed by the Governing Body, duly executed by the personal representative of the estate of the deceased member transferring possession of the house. .

Right of Surviving Spouse

39.2 In the event that:

- (a) a Member holding a leasehold interest or a house allocated to that Member in First Nation Land and residing on that leased First Nation Land dies intestate and is survived by a Spouse or dependant who does not hold an interest in that land or the house; or
- (b) a Member holding a leasehold interest in First Nation Land or living in a house allocated to that Member is declared incompetent due to mental incapacity,

the Member's Spouse or dependant may, where their usual place of residence was with the Member at the time of the Member's death or declaration of incompetence, continue to reside on the leased land or in the house until disposition of the Member's interest.

39.3 A Spouse or dependant referred to in section 39.2, whether or not their usual place of residence was with the Member at the time of the Member's death or declaration of incompetence, may make application for transfer of the Member's leasehold interest or the house, and Governing Body will, subject to this Land Code, evaluate the application on its merits and recommend accordingly.

Dispute as to the Disposition of the House

39.4 In the event that:

- (a) no other provision has been made by a Member referred to in section 39.1 for the disposition of the allocation; or
- (b) the Member's Spouse or dependant does not within a reasonable time make application under section 39.3; or
- (c) a member of the Member's Immediate Family disputes the continued residence on or use of the house by the Member's Spouse or dependant,

the Governing Body will take reasonable steps to advise other members of the Member's Immediate Family that the house held by the Member is available for disposition or is in dispute and the Member's Immediate Family may, with the assistance of the Dispute Resolution Panel if requested, recommend who is to receive the house .

Meeting of Members

- 39.5 If a Member referred to in section 39.1 has no Immediate Family, or if the Immediate Family does not within a reasonable period of time after the date of such Member's death or declaration of incompetence recommend who is to receive the interest, the Governing Body will recommend who is to receive the interest and may call a Meeting of Members to provide advice on the disposition of the interest.
- 39.6 Subject to this Land Code, the Governing Body will make best efforts to implement a recommendation made under section 37.3, 37.4 or 37.5.
- 39.7 A Member who claims to be entitled to possession of First Nation Land by devise or descent in accordance with the provisions of the *Indian Act* relating to the estate of an Indian is not entitled to lawful possession of that First Nation Land or a Certificate of Possession unless:
- (a) The Member has filed with the Governing Body and the Governing Body has approved, a Written Instrument, duly executed by the personal representative of the estate of the deceased Member transferring the possession to the Member; and
 - (b) The Written Instrument referred to in subsection 39.7(a) is registered in the Matsqui Lands Register.
- 39.8 The purchaser of a right to possession of First Nation Land under the provisions of subsection 50(2) of the *Indian Act*, shall be deemed not be in lawful possession of the First Nation Land unless:

- (a) The purchaser has filed with the Governing Body and the Governing Body has approved, a Written Instrument, duly executed by the person authorized under the *Indian Act* to execute a transfer of lawful possession of the First nation Land obtained under subsection 50(2) of the *Indian Act*; and
- (b) The Written Instrument referred to in subsection 39.8(a) is registered in the Matsqui Lands Register.

40. Spousal Property Law

Development of Rules and Procedures

- 40.1 Within twelve months after the date this Land Code comes into effect the Governing Body will enact a spousal property Law applicable on the breakdown of a marriage to:
- (a) the use, occupancy and possession of First Nation Land; and
 - (b) the division of interests in that land.

General Principles

- 40.2 The Law developed under section 40.1 will take into account the following general principles:
- (a) a child of the Spouses should have a right to reside in the matrimonial home until the age of majority or until other arrangements have been made in the best interests of that child;
 - (b) the Spouses should resolve spousal property matters by contract or agreement;
 - (c) each Spouse should have an equal right to possession of the matrimonial home;
 - (d) each Spouse should be entitled to an undivided half interest in the matrimonial home as a tenant in common; and
 - (e) the rules and procedures will not discriminate on the basis of sex.

Interim Law

- 40.3 The Governing Body may enact an interim spousal property Law at any time within the twelve month period prescribed in section 40.1.
- 40.4 An interim Law enacted under section 40.3 will be deemed to be repealed twelve

months after the coming into force of this Land Code but may be re-enacted in whole or in part in accordance with section 40.1.

PART 8 DISPUTE RESOLUTION

41. Dispute Resolution Panel

Panel Established

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

Representation

41.2 The Governing Body will, for the purpose of identifying members of a Dispute Resolution Panel, establish an eligibility list containing the names of Eligible Voters who are representative of the community, including non-resident Members.

No Remuneration

41.3 Unless the Governing Body by Resolution provides otherwise, members of a Dispute Resolution Panel will receive no remuneration.

42. Dispute Resolution Procedure

Disputes

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

Prior Disputes

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

Optional Process

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

Informal Resolution of Disputes

42.4 The First Nation intends that wherever possible, a dispute in relation to First Nation Land will be resolved through informal discussion by the parties to the

dispute and nothing in this Part will be construed to limit the ability of any person to settle a dispute without recourse to this Part.

Application Procedures

42.5 Referral of a dispute to the Dispute Resolution Panel will be made in accordance with procedures established by the Governing Body in consultation with the eligible members of a Dispute Resolution Panel and the Lands Committee.

Limitation Period

42.6 The limitation period for referring a dispute to a Dispute Resolution Panel is:

- (a) thirty days after the day the decision, act or omission that is the subject of the dispute occurred; or
- (b) in the case of a dispute under section 39, 12 months after the date of the final recommendation of the Governing Body under that section.

42.7 A Dispute Resolution Panel will be made up of three panelists selected by lot.

42.8 The Chair of the Governing Body will make the selection referred to in section 42.7.

42.9 The panelists selected under section 42.7 will select a chair from among themselves.

43. Impartiality

Duty to Act Impartially

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

Offence

43.2 It is an offence under this Land Code for a person to act, or attempt to act, in a way intended to improperly influence a decision of the Dispute Resolution Panel.

Rejection of Application

43.3 In addition to any other penalty provided for an offence under section 43.2, the Panel may refuse an application to hear a dispute if the Panel reasonably concludes that the applicant acted, or attempted to act, in a way to improperly influence a decision of the Panel.

44. Powers of Dispute Resolution Panel

Powers of Dispute Resolution Panel

- 44.1 The Dispute Resolution Panel may, after hearing a dispute:
- (a) confirm or reverse the decision in dispute, in whole or in part;
 - (b) substitute its own decision for the decision in dispute;
 - (c) direct that an action be taken or ceased; or
 - (d) refer the matter or dispute for reconsideration.

Rules of Panel

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

Professional Services

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

Decisions

- 44.4 The Dispute Resolution Panel will give written reasons for a decision.
- 44.5 Written decisions of the Dispute Resolution Panel will be signed by the chair of the Dispute Resolution Panel.
- 44.6 Subject to section 44.7, a decision of the Dispute Resolution Panel is binding.

Appeal of Decision

- 44.7 Subject to any exception established by a Law a decision of the Dispute Resolution Panel may be reviewed by the Federal Court of Canada.

Costs

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

Alternate Forums

- 44.9 Nothing in this part precludes the Governing Body from establishing additional processes for resolving disputes under this Part, which processes may include facilitated discussion, mediation or arbitration.

PART 9 OTHER MATTERS

45. Liability

Liability Insurance

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

46. Enforcement

Application of the Criminal Code

- 46.1 Unless otherwise provided by a Law, the summary conviction procedures of Part XXVII of the Criminal Code apply to offences under this Land Code and offences under a Law.

Justices of the Peace

- 46.2 The Governing Body may enact Laws respecting appointment of justices of the peace for the enforcement of this Land Code and Laws.

Provincial Courts

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

47. Amendments to Land Code

Ratification Vote

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

48. Commencement

Ratification

- 48.1 This Land Code will be ratified if:
- (a) the Members approve this Land Code and the Individual Agreement in

accordance with the Framework Agreement; and

- (b) this Land Code has been certified by the Verifier in accordance with the Framework Agreement.

Effective Date

- 48.2 Subject to section 48.1, this Land Code shall come into force when the Council has passed a resolution specifying the commencement date.

49. Appendices

Appendices May Be Amended

- 49.1 The Appendices to this Land Code do not form part of this Land Code and for greater certainty section 47 of this Land Code does not apply to an amendment to an Appendix to this Land Code

APPENDICES

APPENDIX A: Matsqui First Nation Custom Election & Regulations and Procedures
(select sections)