



**Atikameksheng Anishnawbek  
(Whitefish Lake)  
Land Management Code**

September 2008

Revision "7"

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**PREAMBLE**

**Whereas** the Atikameksheng Anishnawbek people have a profound relationship with the land;

**Whereas** the Atikameksheng Anishnawbek has entered into a government to government *Framework Agreement* on First Nation Lands Management with Canada on March 31, 2003;

**And Whereas** the Atikameksheng Anishnawbek wishes to manage its lands and resources, rather than having its lands and resources managed on its behalf under the *Indian act*:

**NOW THEREFORE, THIS LAND CODE IS HEREBY ENACTED AS THE FUNDAMENTAL LAND LAW OF ATIKAMEKSHENG ANISHNAWBEK.**

**PART 1  
PRELIMINARY MATTERS**

**1. Title**

*Title*

- 1.1 The Title of this enactment is the Atikameksheng Anishnawbek Land Management Code.

**2. Interpretation**

*Definitions*

- 2.1 The following definitions apply in this Land Code:

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

“Community Land” means any Atikameksheng Anishnawbek Land in which all members have a common interest.

“Council” means the Chief and Council of Atikameksheng Anishnawbek.

“Duplicate Land Register” means the duplicate register maintained by the Department of Indian Affairs and Northern Development under the *Framework Agreement*.

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

“First Nations Lands Register” means the land register maintained by the Atikameksheng Anishnawbek.

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

“Immediate Relatives”, in respect of a person, means the person’s parents, sister, brother, child or spouse.

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

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

“Meeting of Members” means a meeting under section 13 to which the members are invited to attend.

“Member” means a person whose name appears or is entitled to appear on the Indian Register for Atikameksheng Anishnawbek.

“First Nation” means the Atikameksheng Anishnawbek.

“First Nation land” means any portion of Atikameksheng Anishnawbek (Whitefish Lake Indian Reserve # 6) that is subject to this Land Code under section 5.

“Ratification Vote” means a vote of eligible voters under section 14.

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

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

## Atikameksheng Anishnawbek Land Management Code

“*Transfer Agreement*” means the Individual Transfer Agreement made between Atikameksheng Anishnawbek and Her Majesty in right of Canada, dated July 9, 2008 and all renewals made thereafter.

### *Paramountcy*

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

### *Culture and Traditions*

2.3 The structures, organizations and procedures established by or under this Land Code shall be interpreted in accordance with the culture, traditions and customs of Atikameksheng Anishnawbek, unless otherwise posted.

### *Language*

2.4 The Language of the Atikameksheng Anishnawbek 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*

2.5 This Land Code does not abrogate or derogate from any Aboriginal, treaty or other rights or freedoms that pertain to the Atikameksheng Anishnawbek or its members.

### *Fair Interpretation*

2.6 The Land Code shall be interpreted in a fair, large and liberal manner.

### *Fiduciary Relationship*

2.7 This Land Code does not abrogate the fiduciary relationship between Her Majesty and the Atikameksheng Anishnawbek and its members.

### *Land and Interests affected*

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

- (a) the water, beds underlying water, riparian rights, and renewable and non-renewable natural resources belonging to that land, to the extent that these are under the jurisdiction of Canada; and
- (b) all the interests and licences granted to Atikameksheng Anishnawbek by Her Majesty in right of Canada listed in the *Transfer Agreement*.

### **3. Authority to Govern**

*Origin of Authority*

- 3.1 The traditional teachings of the Atikameksheng Anishnawbek speak of the obligation of the people of the Atikameksheng Anishnawbek to care for and respect the land. By enacting this Land Code, the Atikameksheng Anishnawbek is assuming this special responsibility.

*Flow of authority*

- 3.2 The authority of the Atikameksheng Anishnawbek to govern its lands and resources flows from the Creator to the people of the First Nation, and from the people to the Chief and Council according to the Culture, traditions, customs and laws of our First Nation.

### **4. Purpose**

*Purpose*

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

*Ratification*

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

### **5. Description of Atikameksheng Anishnawbek Land**

*First Nation Land*

- 5.1 The Atikameksheng Anishnawbek land that is subject to this Land Code is:

**Atikameksheng Anishnawbek (Whitefish Lake Indian Reserve No. 6)**

**Land description of the Extent of Reserve Lands that will be subject to the Land Code of the Atikameksheng Anishnawbek (Whitefish Lake First Nation) under the First Nations Land Management Act.**

**Reserve Lands within the District of Sudbury, Province of Ontario, Canada,**

**Comprised of the following lands, excluding mines and minerals:**

## Atikameksheng Anishnawbek Land Management Code

All of Atikameksheng Anishnawbek (Whitefish Lake I.R. No. 6) as shown on Plan 90437 Canada Lands Surveys Records (CLSR) and Plan 92686 CLSR;

Subject to a 100-foot wide Right of Way, as shown on Plan M2675 CLSR, as set out in Indian Lands Registry (ILR) Instrument X15690.

**Total lands, excluding mines and minerals, containing 19,750 hectares (48,804 acres), more or less.**

### **Mines and Minerals:**

All of Atikameksheng Anishnawbek (Whitefish Lake I.R. No. 6) as shown on Plan 90437 Canada Lands Surveys Records (CLSR) and Plan 92686 CLSR; and,

All that portion of Greater Sudbury Municipal Road 10 (formerly Highway 549) as shown on Plan 92490 CLSR.

**Total mines and minerals containing 19,753 hectares (48,811 acres), more or less.**

### *Additional lands*

- 5.2 The following lands may be made subject to this Land Code after the applicable condition is met:
- (a) any land or interest acquired by Atikameksheng Anishnawbek after this Land Code takes effect, whether by land claim, purchase or other process, when an environmental audit declares it free of environmental hazard and safe for community use

### *Land exchange*

- 5.3 For greater certainty, section 5.2 does not apply to land acquired by land exchange, which is governed by the process in section 17.

### *Inclusion of land or interest*

- 5.4 When the relevant conditions in section 5.2 are met, the Council shall call a meeting of members under section 11 and, after receiving their input, may by enacting a law declare the land or interest to be subject to this Land Code.



**PART 2**  
**ATIKAMEKSHENG ANISHNAWBEK LEGISLATION**

**6. Law-Making Powers**

*Council may make laws*

- 6.1 Atikameksheng Anishnawbek Council may, in accordance with this Land Code, make laws respecting the development, conservation, protection, management, use and possession of Atikameksheng Anishnawbek lands, and interests and licences in relation to those lands. This power includes the power to make laws in relation to any matter necessary or ancillary to the making of laws in relation to Atikameksheng Anishnawbek land.

*Examples of laws*

- 6.2 The following examples illustrate some of the laws that may be enacted:
- (a) The regulation, control or prohibition of land use and development including zoning and subdivision control;
  - (b) The creation, acquisition and granting of interests in and licences in relation to First Nation land and prohibitions in relation thereto;
  - (c) Laws on environmental assessment and protection;
  - (d) Laws on the provision of local services in relation to Atikameksheng Anishnawbek land and the imposition of equitable user charges; and
  - (e) Laws on the provision of services for the resolution, outside the courts, of disputes in relation to Atikameksheng Anishnawbek land.

**7. Law-Making Procedures**

*Introduction of laws*

- 7.1 A proposed law will be introduced at a duly convened meeting of the Council by:
- (a) the Chief or a Councillor.

*Tabling and posting of proposed laws*

- 7.2 Before a proposed law may be enacted by the Council, it must first be:
- (a) tabled at a meeting of the Council held at least 90 days before the law is to be enacted; and
  - (b) posted in public places on Atikameksheng Anishnawbek land at least 60 days before the law is to be enacted.

*Urgent matters*

- 7.3 The Council may enact a law without the preliminary steps required under section 7.2, if the Council is of the opinion that the law is needed urgently to protect Atikameksheng Anishnawbek land or the members, but the law expires 28 days after its enactment, unless re-enacted in accordance with section 7.2.

*Approval of law by Council*

- 7.4 A law is enacted if it is approved by a majority of the Council at a meeting of the Council open to the members.

*Certification of laws*

- 7.5 The original copy of any law or resolution concerning Atikameksheng Anishnawbek land shall be signed by a quorum of the Council present at the meeting at which it was enacted.

**8. Publication of Laws**

*Publication*

- 8.1 All laws shall be published in the minutes of the Council.

*Posting Laws*

- 8.2 Within 7 days after a law has been enacted, the Council shall post a copy of the law in the administrative offices of the Atikameksheng Anishnawbek.

*Registry of laws*

- 8.3 The Council shall cause to be kept, at the administrative offices of Atikameksheng Anishnawbek, a register of the original copy of all laws and resolutions, including laws and resolutions that have been repealed or are no longer in force.

*Copies of any person*

- 8.4 Any person may obtain a copy of a law or resolution on payment of a reasonable fee set by Council, or a body designated by Council.

**9. Commencement of Laws**

*Laws taking effect*

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

**PART 3  
COMMUNITY APPROVALS**

**10. Rights of Eligible Voters**

*Rights of eligible voters*

- 10.1 Each member who is at least 18 years of age is eligible to vote at a meeting of members and at a ratification vote.

**11. Community Input**

*Prior meeting of members*

- 11.1 The Council shall convene a meeting of members to receive their input prior to the introduction of the following laws:

- (a) a law respecting an Atikameksheng Anishnawbek plan, a community plan or subdivision plan;
- (b) a law declaring land or an interest referred to in section 5.2;
- (c) a law affecting a heritage site or an environmentally sensitive property;
- (d) a law respecting environmental assessment;
- (e) a law respecting the transfer and assignment of interests in land;
- (f) a law respecting the rate and criteria for the payment of fees or rent for land; and
- (g) any other law or class of law that Council, by resolution, declares to be subject to this section.

*Process to implement laws*

- 11.2 The Lands Committee shall, within a reasonable time after this Land Code takes effect, establish a community process to develop and implement the laws referred to in section 11.1

**12. Community Approval by a Meeting of Members**

*Community approval by meeting*

- 12.1 Community approval at a meeting of members must be obtained for the following:

- (a) any grant or disposition of an interest or licence in any First Nation land exceeding a term of twenty-five years;
- (b) any renewal of a grant or disposition of an interest or licence in any First Nation land that extends the original term beyond 25 years;

- (c) any Grant or disposition of any natural resources on any Atikameksheng Anishnawbek lands exceeding a term of 5 years;
- (d) any law governing charges or mortgage of a leasehold interest;
- (e) any law on matrimonial real property on reserve that may be enacted under section 39; and
- (f) any law or class of law that Council, by resolution, declares to be subject to this section.

### **13. Procedure at a Meeting of Members**

#### *Voting*

- 13.1 Decisions at a meeting of members are to be made by a majority vote of the eligible voters present at the meeting.

#### *Notice of meeting*

- 13.2 The Council shall give written notice of the meeting of members that:

- (a) specifies the date, time and place of the meeting; and;
- (b) contains a brief clear description of the matters to be discussed and decided on at the meeting.

#### *Manner of notice*

- 13.3 The notice of a meeting of members must be given to the members by:

- (a) posting the notice in a public place on Atikameksheng Anishnawbek land at least 28 days before the meeting;
- (b) mailing the notice to members, at least 21 days before the meeting;
- (c) publishing the notice in the community newsletter at least 10 working days before the meeting; and
- (d) such additional methods as the Council may consider appropriate in the circumstances.

#### *Who may attend*

- 13.4 All members have the right to attend a meeting of members.

#### *Quorum*

- 13.5 The quorum for a meeting of members under this Land Code is 6% of eligible voters.

## **14. Ratification Vote**

### *Community approval by ratification vote*

14.1 Community approval by a ratification vote must be obtained for the following:

- (a) any development on a heritage site referred to in section 16;
- (b) any voluntary exchange of Atikameksheng Anishnawbek land;
- (c) any amendment to the *Transfer Agreement* that reduces the amount of funding provided by Canada;
- (d) any amendment to this Land Code;
- (e) any plan to subdivide the First Nation land into zones (or lots); and
- (f) any law or class of law that Council, by resolution, declares to be subject of this section.

### *Transfer Agreement with Canada*

14.2 An amendment to, or renewal of, the *Transfer Agreement* does not require community approval by a ratification vote, unless the amendment or renewal reduces the amount of funding provided by Canada.

### *Ratification process*

14.3 Any ratification vote required under this Land Code shall be conducted in substantially the same manner as the *First Nation Community Ratification Process*, which was used to ratify this Land Code.

### *No verifier*

14.4 A verifier is not needed in any ratification vote, except a vote on an amendment to this Land Code.

### *Minimum requirements for approval*

14.5 A matter shall be considered approved at a ratification vote if a majority of the registered voters who vote cast a vote in favour of the matter.

## **PART 4 PROTECTION OF LAND**

## **15. Expropriation**

### *Acquisition by mutual agreement*

15.1 The right of Atikameksheng Anishnawbek to expropriate can only be exercised after a good faith effort to acquire, by mutual agreement, the interest or license in Atikameksheng Anishnawbek land.

*Rights and interest that may be expropriated*

15.2 An interest or license in Atikameksheng Anishnawbek land, or in any building or other structure on those Lands, may only be expropriated by Atikameksheng Anishnawbek in accordance with section 15 of the *Framework Agreement* and any Land Law enacted for the purpose of establishing the rights and procedures for community expropriations.

*Community purposes*

15.3 A community expropriation shall only be made for a necessary community purpose or works of Atikameksheng Anishnawbek, including but not limited to: a fire hall, sewage or water treatment facility, community centre, public works, roads, schools, day-care facility, hospitals, health-care facility and retirement home.

*Expropriation laws*

15.4 Before proceeding to make any community expropriations in accordance with this *Land Code*, the Council shall enact a Land Law respecting the rights and procedures for community expropriations, including provisions respecting:

- (a) the taking of possession of the interest or license;
- (b) transfer of the interest or license;
- (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.

*Member notification*

15.5 In the case of an expropriation of a Member's interest in Atikameksheng Anishnawbek Land, the affected Member or Members must receive notification of the expropriation within a reasonable time prior to the release of the public report referred to in section 15.6.

*Public Report*

15.6 Before Atikameksheng Anishnawbek decides to expropriate an interest or license, it shall make a public report on the reasons justifying the expropriation.

*Community approval*

15.7 In the case of an expropriation of a Member's interest, the expropriation must first receive community approval at a Community Meeting of Members.

*Compensation for rights and interests*

15.8 Atikameksheng Anishnawbek shall, in accordance with its Laws and the *Framework Agreement*:

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

*Compensation calculations*

- 15.9 Atikameksheng Anishnawbek shall calculate the total value of the compensation under this section based on the heads of compensation set out in the *Expropriation Act* (Canada).

*Market value*

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

*Neutral evaluation to resolve disputes*

- 15.11 The resolution of disputes concerning the right of Atikameksheng Anishnawbek 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 clause 32.6 of the *Framework Agreement* shall be applied, as appropriate in the circumstances, by the neutral evaluator.

*Arbitration to resolve disputes*

- 15.12 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 the holder of an expropriated interest or license to compensation; and
  - (b) disputes concerning the amount of the compensation.

## **16. Heritage Sites**

*Community approval of development*

- 16.1 No development shall be allowed on any site designated as a heritage site under the land use plan, unless the development receives community approval by a ratification vote.

*Land Use Plan*

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



## **17. Voluntary Land Exchanges and Protection**

### *Conditions for a land exchange*

17.1 Atikameksheng Anishnawbek may agree with another party to exchange a parcel of 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 by a ratification vote.

### *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 must be equal to or greater than the area of First Nation land to be exchanged;
- (b) it must be at least comparable to the appraised value of the First Nation land; and
- (c) it must become a reserve and become an addition to the Atikameksheng Anishnawbek land subject to this Land Code.

### *Negotiators*

17.4 The persons who will have authority to negotiate a land exchange agreement on behalf of Atikameksheng Anishnawbek must be designated by resolution.

### *Additional land*

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

### *Federal consent*

17.6 Before Atikameksheng Anishnawbek concludes a land exchange agreement, it must receive a written statement from Canada clearly stating that Her Majesty in right of Canada:

- (a) consents to set apart as a reserve the land to be received in exchange, as of the date of the land exchange or such later date as the Council may specify by resolution; 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, the Council/Lands Committee shall provide the following information to eligible voters at least 60 days before the vote:

- (a) a description of the 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 three (3) separate and independent certified land appraisers setting out that the conditions in section 17.3 (a) and 17.3 (b) have been met;
- (e) a copy or summary of the exchange agreement; and
- (f) a copy of the consent referred to in section 17.6.

*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) the Council must pass a resolution authorizing Canada to transfer title to the First Nation land being exchanged, in accordance with the exchange agreement; and
- (c) a copy of the instruments transferring title to the relevant parcels of land must be registered in the Atikameksheng Anishnawbek Lands Register.

**PART 5  
ACCOUNTABILITY**

**18. Conflict of Interest**

*Application of rules*

18.1 The rules in section 18.2 apply to the following persons:

- (a) each member of the Council who is dealing with any matter before Council that is related to Atikameksheng Anishnawbek land;
- (b) each person who is an employee of Atikameksheng Anishnawbek dealing with any matter that is related to Atikameksheng Anishnawbek land;

- (c) each person who is a member of a board, committee, panel or other body of Atikameksheng Anishnawbek dealing with any matter that is related to Atikameksheng Anishnawbek land; and
- (d) each member who attends a meeting of members to decide on a matter requiring a meeting of members.

*Duty to report and abstain*

18.2 If there is any interest, financial or otherwise, in the matter being dealt with that might involve the person or his or her immediate relative and extended family, the person:

- (a) shall disclose the interest to the Council, or board, committee, panel or other body as the case may be; and
- (b) shall not take part in any deliberations on that matter or vote on that matter.

*Common interests*

18.3 Section 18.2 does not apply to any interest that is held by a member in common with every other member.

*Meeting of eligible voters*

18.4 If the Council is unable to vote on a proposed law or resolution due to a conflict of interest, the Council may refer the matter to a community meeting and, if a quorum of eligible voters is present, a majority of the eligible voters present at the meeting may enact the land law or land resolution.

*Inability to act*

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

*Special conflict situations*

18.6 Because of the unusual conflicts of interest possible in the community, not more than two members from the same extended family may be a member of a board, committee or other body dealing with any matter that is related to Atikameksheng Anishnawbek land.

*Disputes*

18.7 Questions about whether a breach of this section have occurred may be referred to the Panel.

*Other Laws*

18.8 For greater certainty, the Council may enact laws to further implement this section.

## **19. Financial Management**

### *Application*

- 19.1 This section applies only to financial matters relating to Atikameksheng Anishnawbek land.

### *Establishments of Bank Accounts*

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

- (a) transfer payments received from Canada for the management and administration of Atikameksheng Anishnawbek land;
- (b) moneys received by Atikameksheng Anishnawbek from the grant or disposition of any interests or licences in Atikameksheng Anishnawbek land;
- (c) all fees, fines, charges and levies collected under a land law or land resolution;
- (d) all capital and revenue moneys received from Canada from the grant or disposition of any interests and licences in First Nation land; and
- (e) any other land revenue received by Atikameksheng Anishnawbek.

### *Signing officers*

- 19.3 The Council shall authorize at least three persons, one of whom shall be a member of Council, to sign cheques and other bills of exchange or transfers drawn on the account.

### *Bonding*

- 19.4 Every signing officer must be bondable.

### *Two signatures*

- 19.5 To be valid, a cheque or other bill of exchange or transfer drawn on the account must be signed by two signing officers.

### *Fiscal Year*

- 19.6 The fiscal year of Atikameksheng Anishnawbek begins on April 1 of each year and ends on March 31, of the following year.

### *Adoption of Budget*

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

*Procedure*

- 19.8 After adopting the land management budget or supplementary budget, the Council shall, without undue delay:
- (a) explain the budget or supplementary budget to the members at an annual community meeting; and
  - (b) make a copy of the budget or supplementary budget available at the administrative offices of Atikameksheng Anishnawbek for inspection by members at reasonable hours.

*If no budget*

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

*Budget rules*

- 19.10 The Council may make rules respecting the preparation and implementation of land management budgets.

*Expenditures*

- 19.11 The Council may not expend moneys related to land or commit itself, by contract or otherwise, to expend moneys related to land, unless the expenditure is authorized by or under a law or an approved budget.

*Financial Policy*

- 19.12 The Council may, in accordance with the Land Code, adopt a financial policy to further manage moneys related to First Nation land.

**20. Financial Records**

*Financial records*

- 20.1 Atikameksheng Anishnawbek shall keep financial records related to land in accordance with generally accepted accounting principles.

*Offences*

- 20.2 A person is guilty of an offence if the person:
- (a) impedes or obstructs anyone from exercising their right to inspect the financial records of Atikameksheng Anishnawbek; or
  - (b) has control of the books or accounts or financial records of Atikameksheng Anishnawbek and fails to give all reasonable assistance to anyone exercising their right to inspect the financial records.

*Preparation of financial statement*

20.3 Within 90 days after the end of each fiscal year, the Council on behalf of the Atikameksheng Anishnawbek shall prepare a financial statement in comparative form, containing at a minimum:

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

*Consolidated accounts, etc.*

20.4 The accounting, auditing and reporting requirements of this Land Code will be done together with, and consolidated with, the other accounts, audits and reports of Atikameksheng Anishnawbek .

**21. Audit**

*Appointment of auditor*

21.1 For each fiscal year, a duly accredited auditor shall be appointed to audit the land related financial records of Atikameksheng Anishnawbek.

*Holding office*

21.2 The auditor appointed under this section holds office until reappointed, or replaced.

*Vacancy in office*

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

*Remuneration*

21.4 The auditor's professional fee shall be fixed by the Council.

*Duty of officer*

21.5 The auditor shall, within 120 days after the end of Atikameksheng Anishnawbek's fiscal year, prepare and submit to the Council and Atikameksheng Anishnawbek membership, a report on Atikameksheng Anishnawbek's financial standing, stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of

Atikameksheng Anishnawbek in accordance with generally accepted accounting principles applied on a basis consistent with that applied in the previous fiscal year.

*Access to records*

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

*Explanation of auditors report*

- 21.7 The Council shall present the auditor's report to the members at a meeting of members.

**22. Annual Report**

*Publish annual report*

- 22.1 The Council, on behalf of the Atikameksheng Anishnawbek, shall publish an annual report on lands issues within one month of receipt of the community's audit.

*Contents*

- 22.2 The annual report will include:
- (a) an annual review of land management;
  - (b) a copy and explanation of the audit as it applies to lands; and
  - (c) any other matter considered worth including by Council or Lands Committee.

**23. Access to Information**

*Access*

- 23.1 Any member may, during normal business hours at the main administrative office of Atikameksheng Anishnawbek, have reasonable access to:
- (a) the register of laws;
  - (b) the auditor's report; and
  - (c) the annual report on lands issues

*Copies for members*

- 23.2 Any member may obtain a copy of the auditor's report or annual report on payment of a reasonable fee set by or under resolution of the Council.

*Access to records*

- 23.3 Any person authorized by the Council may, at any reasonable time, inspect the financial records of Atikameksheng Anishnawbek related to Atikameksheng Anishnawbek land.

**PART 6  
LAND ADMINISTRATION**

**24. Land Staff**

*Administration*

- 24.1 Council may delegate administrative authority to staff to carry out functions necessary for day to day administrative operations of lands and resources

**25. Lands Committee**

*Lands Committee Established*

- 25.1 The Lands Committee is hereby established to:

- (a) assist with the development of the land administration system;
- (b) advise the Council and its staff on matters respecting Atikameksheng Anishnawbek land;
- (c) recommend laws, resolutions, policies and practices respecting Atikameksheng Anishnawbek land to the Council;
- (d) hold regular and special meetings of members to discuss land issues and make recommendations to Council on the resolution of these land issues;
- (e) to assist in the flow of information on land issues between members and the Council;
- (f) oversee community approvals under this Land Code; and
- (g) carry out any other duties as may be assigned or delegated by Council.

*Development of land related rules and procedures*

- 25.2 Within a reasonable time after this Land Code takes effect, the Lands Committee shall, in consultation with the community, ensure that rules and procedures are developed that address the following matters:

- (a) environmental protection and assessment in relation to First Nation land;
- (b) any outstanding issues on the resolution of disputes in relation to First Nation land;



- (c) land use planning and zoning; and
- (d) section 39 respecting matrimonial real property on reserve and whether any change should be made to the policy upon which that section is based; and
- (e) any other matter referred by Council.

*Implementation of policies*

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

*Internal procedures*

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

**26. Membership of the Lands Committee**

*Composition*

26.1 The Lands Committee shall be composed of seven (7) members, all of whom must be eligible voters.

*Eligibility to be nominated as a Lands Committee member*

26.2 Any eligible voter, listed below whether resident on or off Atikameksheng Anishnawbek land, is not eligible for appointment or election to the Lands Committee, when that person has not fully served their sentence or has not been forgiven:

- (a) any person convicted of an offence that was prosecuted by way of indictment;
- (b) any bankrupt person; and
- (c) any person convicted of a corrupt practice in connection with an election, including accepting a bribe, dishonesty or wrongful conduct.

*Selection of Lands Committee members*

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

- (a) one (1) member of Council is to be appointed by the Council; and
- (b) the other six (6) members are to be elected by eligible voters.

*Term of office*

26.4 The length of the term of office for members of the first Lands Committee will be:



- (a) one (1) member of Council is to be appointed by the Council for a two (2) year term to coincide with his or her term of office;
- (b) three (3) of the members will serve for two (2) years;
- (c) three (3) of the members will serve for one (1) year; and
- (d) each term of office following, the members will serve for two (2) years.

*Staggered terms*

26.5 The commencement of the terms of office of the members of the Lands Committee are to be staggered as follows:

- (a) the appointed member is to be appointed by the Council as soon as possible after the election of the Council;
- (b) the other 3 elected members are to be elected mid-way through the term of the Council on a date fixed by the Council.

*Election law*

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

*Vacancy on Lands Committee*

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

- (a) is or becomes ineligible to hold office under section 26.2;
- (b) is or becomes ineligible because of a transfer of membership from Atikameksheng Anishnawbek; and
- (c) is absent for 3 consecutive meetings of the Lands Committee for a reason other than illness or incapacity, and without being authorized to do so by the Lands Committee.

*Vacancy in term*

26.8 Where the office of an elected or appointed member of the Lands Committee becomes vacant or will be for more than 90 days before the date when another appointment or election would ordinarily be held, a special election may be held or appointment made in accordance with this Land Code, as the case may be, to fill the vacancy.

*Balance of term of office*

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

## **27. Chairperson of the Lands Committee**

### *Chairperson*

27.1 The Lands Committee will select the Chairperson of the Lands Committee.

### *Functions of Chairperson*

27.2 The functions of the Chairperson are to:

- (a) ensure the preparation of financial statements relating to all activities of the Lands Committee, including the revenues and expenditures concerning Atikameksheng Anishnawbek lands;
- (b) make written and verbal reports to Atikameksheng Anishnawbek on the activities of the Lands Committee;
- (c) ensure the audited annual financial statements are published under section 22; and
- (d) ensure that accurate and timely minutes of meetings of the Lands Committee are maintained and prepared.

### *Alternate Chairperson*

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

## **28. Revenue from Lands**

### *Determination of fees and rent*

28.1 The Lands Committee shall, subject to the approval of the Council, establish the process for determining:

- (a) the fees and rent for interests and licences in community land; and
- (b) the fees for services provided in relation to any Atikameksheng Anishnawbek land.

## **29. Registration of Interests and Licences**

### *Enforcement of interest and licences*

29.1 An interest or licence in Atikameksheng Anishnawbek land created or granted after this Land Code takes effect is not enforceable unless it is registered in the Atikameksheng Anishnawbek Lands Register.

*Registration of consent or approval*

- 29.2 No legal document that requires the consent of the Council, or community approval, may be registered unless a certified copy of the document that records the consent or approval is attached.

*Duty to deposit*

- 29.3 The Council shall ensure that a duplicate copy of the following legal documents is deposited in the Atikameksheng Anishnawbek Lands Register:
- (a) any grant of an interest or licence in Atikameksheng Anishnawbek land;
  - (b) any transfer or assignment of an interest in Atikameksheng Anishnawbek land;
  - (c) every land use plan, subdivision plan or resource use plan; and
  - (d) this Land Code and any amendment to this Land Code.

**30. Lands Register**

*Duty to maintain a register*

- 30.1 The Atikameksheng Anishnawbek Council shall create and maintain a Lands Register.

*Duty of member to deposit*

- 30.2 Every person who receives an interest or licence in Atikameksheng Anishnawbek land from a member shall deposit an original copy of the relevant legal document in the Atikameksheng Anishnawbek Register.

**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 a written document in accordance with this Land Code

*Standards*

- 31.2 The Council will establish mandatory standards, criteria and forms for interests and licences in Atikameksheng Anishnawbek land.

*Improper transactions void*

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

*Non-members*

- 31.4 A person who is not a member may only hold a lease, licence or permit in Atikameksheng Anishnawbek land.

*Grants to non-members*

- 31.5 The written consent of the Council must be obtained for any grant or disposition of a lease, licence or permit in Atikameksheng Anishnawbek land to a person who is not a member.

**32. Existing Interests**

*Continuation of existing interests*

- 32.1 Any interest or licence in Atikameksheng Anishnawbek land that existed when this Land Code takes effect will, subject to this Land Management Code, continue in force in accordance with its terms and conditions.

**33. New Interests and Licences**

*Authority to make dispositions*

- 33.1 Subject to section 12.1, the Council may, on behalf of Atikameksheng Anishnawbek, grant:
- (a) interests and licences in community lands, including (certificates of possession), leases, permits, easements and rights-of-ways; and
  - (b) permits to take resources from community lands, including cutting timber or removing stone, sand, gravel, clay, soil or other substances.

*Conditional grant*

- 33.2 The grant of an interest, licence or permit may be made subject to the satisfaction of written documents.

*Role of the Lands Committee*

- 33.3 The Lands Committee shall advise Council on the granting of interest, licences and permits and may be authorized to act as a delegate of the Council under this section.

### **34. Certificates of Possession**

*Application*

- 34.1 This section codifies the rights attached to certificates of possession, whether issued under the *Indian Act* or under this Land Code.

*Nature of interest in CP*

- 34.2 Subject to sections 12.1 and 29, a certificate of possession in respect of a parcel of land is an interest that entitles the member holding it to:

- (a) permanent possession of the land;
- (b) benefit from the resources arising from the land;
- (c) grant subsidiary interests and licences in the land: including leases, permits, easements and rights-of-ways;
- (d) transfer, devise or otherwise dispose of the land to another member;
- (e) grant permits to take resources from the land, including cutting timber or removing stone, sand, gravel, clay, soil or other substances; and
- (f) any other rights, consistent with this Land Code, that are attached to certificates of possession under the *Indian Act*.

### **35. Allocation of Land**

*Allocation of lots*

- 35.1 The Council may allocate a lot or lots, of available land to members in accordance with procedures established by the Council.

*Allocation of lots*

- 35.2 No community approval is required for:

- (a) the allocation of lots to members; or
- (b) the issuance of certificates of possession to members.

*No allocation of lots to non-members*

- 35.3 A person who is not a member is not entitled to be allocated a lot or to hold a permanent interest in Atikameksheng Anishnawbek land.

*Issuance of CP*

- 35.4 The Council may issue a certificate of the interest to a member for a lot allocated to that member.

## **36. Transfer and Assignment of Interests**

### *Transfer of CP's*

- 36.1 A member may transfer or assign an interest in Atikameksheng Anishnawbek land to another member without the need for any community approval or consent of the Council.

### *Consent of Council*

- 36.2 Except for transfers under section 36.1 and transfers that occur by operation of law, including transfers of estate by testamentary disposition, or in accordance with a Law enacted pursuant to section 39:
- (a) there shall be no transfer or assignment of an interest in Atikameksheng Anishnawbek without the written consent of the Council; and
  - (b) the grant of an interest or licence is deemed to include section 36.2 (a) as a condition on any subsequent transfers or assignments.

## **37. Limits on Mortgages and Seizures**

### *Protections*

- 37.1 In accordance with the *Framework Agreement*, section 29, section 87 and subsections 89 (1) and (2) of the *Indian Act* continue to apply to Atikameksheng Anishnawbek land.

### *Mortgage of CP*

- 37.2 The interest of a member in Atikameksheng Anishnawbek land may be subject to a mortgage or charge, but only to the Atikameksheng Anishnawbek with the written consent of the Council.

### *Mortgages of leasehold interests with consent*

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

### *Time limit*

- 37.4 The term of any charge or mortgage of a leasehold interest shall not exceed the lesser of:
- (a) the term of the lease; or
  - (b) 25 years, or such longer period as may receive community approval.

*Default in mortgage*

37.5 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 the Council;
- (b) the charge or mortgage received community approval where required;
- (c) the charge or mortgage was registered in the Atikameksheng Anishnawbek Lands Register; and
- (d) a reasonable opportunity to redeem the charge or mortgage is given to the Council on behalf of the Atikameksheng Anishnawbek.

*Power of redemption*

37.6 If the Council exercises its power of redemption with respect to a leasehold interest, Atikameksheng Anishnawbek 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**

*Right to residence*

38.1 The following persons have a right to reside on Atikameksheng Anishnawbek lands:

- (a) members, who have been allocated a residential lot by Council, and their spouses and children;
- (b) members with a registered interest in Atikameksheng Anishnawbek land; and
- (c) any invitee of a member referred to in clause (a) or (b); and lessees and permittees, in accordance with the provisions of the instrument granting the lease or permit.

*Right of access*

38.2 The following persons have a right of access to Atikameksheng Anishnawbek lands:

- (a) a lessee and his or her invitees;
- (b) permittees and those granted a right of access under the permit;
- (c) Atikameksheng Anishnawbek members and their spouses and children;



- (d) a person who is authorized by a government body or any other public body, established by or under an enactment of Atikameksheng Anishnawbek, Parliament or the province to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey; or
- (e) a person authorized in writing by the Council/Lands Committee or by an Atikameksheng Anishnawbek law.

*Public Access*

38.3 Any individual may have access to Atikameksheng Anishnawbek land for any social or business purposes, if

- (a) the individual does not trespass on occupied land and does not interfere with any interest in land;
- (b) the individual complies with all applicable laws; and
- (c) no resolution had been enacted barring that individual.

*Trespass*

38.4 Any person who resides on, enters or remains on Atikameksheng Anishnawbek land other than in accordance with a residence or access right under this Land Code is guilty of an offence.

*Civil remedies*

38.5 All civil remedies for trespass are preserved.

**39. Matrimonial Real Property on Reserve Law**

*Development of rules and procedures*

39.1 The Council shall enact a matrimonial real property on reserve law providing rules and procedures applicable on the breakdown of a marriage, to:

- (a) the use, occupancy and possession of Atikameksheng Anishnawbek land; and
- (b) the division of interests in that land.

*Enactment deadline*

39.2 The matrimonial real property on reserve law shall be enacted within 12 months from the date this Land Code takes effect.



*Immediate rules*

- 39.3 In order that members benefit immediately from the legislative authority of the Council to address the issue of matrimonial real property under this Land Code, the Council may enact a matrimonial real property on reserve law as soon as this Land Code comes into force. As this law would be enacted before the work of the Lands Committee and the community consultation is completed, the law will expire at the end of the 12 month period after the coming into force of this Land Code, unless re-enacted, replaced or amended.

**PART 8  
DISPUTE RESOLUTION**

**40. Dispute Resolution Panel**

*Panel established*

- 40.1 The Dispute Resolution Panel is hereby established with jurisdiction to resolve disputes in relation to Atikameksheng Anishnawbek land.

*Appointment of Panel*

- 40.2 The Panel shall be composed of at least 5 panellists, all of whom must be eligible voters.

*Representation*

- 40.3 The Lands Committee shall appoint the panellists, and shall ensure that the Panel represents the various elements of the community, including Elders, youth, professionals and non-resident members.

*Term of office*

- 40.4 The panellists hold office for a term of 3 years.

*Remuneration*

- 40.5 Panellists are to be paid an honorarium for their services.

**41. Dispute Procedure**

*Disputes*

- 41.1 Any matter or dispute related to Atikameksheng Anishnawbek land may be referred to the Panel for resolution.

*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.

**43. Powers of Panel**

*Powers of Panel*

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

*Rules of Panel*

- 43.2 The Panel may establish rules for procedures at its hearings and generally for the conduct of its affairs.

*Professional services*

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

*Written decisions*

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

*Reasons*

- 43.5 The Panel will give reasons for its decision, and shall do so in writing within 14 days after, the date of the decision.

*Appeal of decision*

- 43.6 A decision of the Panel is binding, but, subject to any exception established by a law, may be appealed to the Federal Court (Trial Division).

**PART 9  
OTHER MATTERS**

**44. Liability**

*Liability coverage*

- 44.1 The Council shall arrange, maintain and pay, out of the transfer payments received from Canada, insurance coverage for its officers and employees engaged in carrying out any matter related to Atikameksheng Anishnawbek land to indemnify them against personal liability arising from the performance of those duties.

*Extent of coverage*

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

*Bonding*

- 44.3 Every employee of Atikameksheng Anishnawbek whose responsibilities include land administration or collecting or accounting for land revenue must be bondable.

**45. Offences**

*Application of the criminal code*

- 45.1 Unless some other procedure is provided for by the 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 law.

**46. Amendments to Land Code**

*Community approval*

- 46.1 All amendments to this Land Code must receive community approval by ratification vote to be effective.

*Verifier*

- 46.2 A verifier is required in a ratification vote on an amendment.

## 47. Commencement

### *Preconditions*

47.1 This Land Code shall not take effect unless:

- (a) the community approves this Land Code and the *Transfer Agreement* with Canada and this Land Code has been certified by the verifier pursuant to the *Framework Agreement*; and
- (b) the Council has enacted a resolution confirming that adequate funding for land management has been identified and assured by Canada under the *Transfer Agreement*.

### *Commencement date*

47.2 Subject to section 47.1, this Land Code shall take effect on the first day of the month following the certification of this Land Code by the verifier.