



# HIAWATHA FIRST NATION LAND CODE

## PLAIN LANGUAGE GUIDE

3 July 2025

### TEXT OF THE HIAWATHA FIRST NATION LAND CODE

#### PREAMBLE

Hiawatha First Nation has a profound and sacred relationship with the land, acknowledging that the land is a gift from the Creator.

We recognize our responsibility to protect the lands, waters and resources in perpetuity for future generations and to protect the rights of Hiawatha First Nation Citizens.

Our values grow from our Mississaugii culture and our beliefs and attitudes emerge from those values. We seek to live in alignment with *Mino Bimaadiziwin*, the teachings passed down from our ancestors. These teachings include seven Grandfathers given to us by the Creator.

To cherish knowledge is to know Wisdom, *Nbwaakaawin*. To know Love, *Zaagidiwin*, is to know peace. To honour all of creation is to have Respect, *Mnaadendamowin*. To face life with courage is to know Bravery, *Aakdehewin*. To walk through life with integrity is to know Honesty, *Gwekwaadziwin*. Humility, *Dbadendizwin*, is to know yourself

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#### PREAMBLE

The Preamble sets out the values inherent to Mississaugii culture. The teachings play an important role in the profound and sacred relationship that Hiawatha First Nation has with the land, along with our responsibility to care for and respect the land. Adopting a Land Code is an important step in ensuring that HFN can reclaim management of our lands and govern these lands in accordance with our cultures, traditions, customs, and laws.

as a sacred part of creation. Truth, *Debwewin*, is to know all these things.

Those teachings given to us by the Creator speak of the obligation of the Mississaugii people to care for and respect the Land and by enacting this Land Code, the Hiawatha First Nation is reclaiming this special responsibility.

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

Hiawatha First Nation asserts its inherent and treaty rights over lands, waters and resources within our traditional territory

We, the Mississaugii of Hiawatha First Nation, are a vibrant, proud, independent and healthy people balanced in the richness of our culture and traditional way of life.

Hiawatha First Nation asserts the right and need to protect, respect and promote our culture and heritage so that we ensure our continued presence as a strong political, social and culturally vibrant Nation.

Hiawatha First Nation, as a signatory to the *Framework Agreement on First Nation Land Management* dated February 12, 1996, as amended, enacts this Land Code as the fundamental law governing Hiawatha First Nation land.

**PART 1: PRELIMINARY MATTERS****Citation**

1.01 This Land Code may be cited as the “Hiawatha First Nation Land Code.”

**Purpose**

1.02 The purpose of this Land Code is to set out the principles, rules and administrative structures that apply to Hiawatha First Nation Land and by which the Hiawatha First Nation will exercise authority over that Land for the benefit of the First Nation.

**PART 1: PRELIMINARY MATTERS**

The purpose of the Land Code is to set out how HFN will exercise authority over and manage its land for the benefit of the HFN community.

**Definitions**

1.03 In this Land Code:

- (a) “alternate decision-maker” means a person with lawful authority to make decisions on behalf of a minor or a person under a disability;
- (b) “Annual Land Management Report” means the report referred to in section 8.02;
- (c) “Canada” means Her Majesty the Queen in Right of Canada and “Ontario” means Her Majesty the Queen in Right of Ontario;
- (d) “certificate of allocation” means an instrument issued by Council pursuant to this Land Code which grants an interest in a parcel of HFN land to one or more citizens;
- (e) “certificate of possession” means an instrument issued by the Minister pursuant to the *Indian Act* prior to the coming into force of the Land Code, which granted exclusive possession of a parcel of HFN land to one or more citizens;
- (f) “citizen” means a person whose name appears or who is entitled to have their name appear on the Hiawatha First Nation Band citizenship list;
- (g) “community land” means all Hiawatha First Nation land other than land allotted to one or more citizens by certificate of allocation or certificate of possession;
- (h) “community approval” means approval by a vote of the eligible voters as provided in PART 5 of this Land Code;
- (i) “community works” means any uses of land and any facilities for the benefit of the Hiawatha First Nation community, and includes services operated, provided or delivered to or for the benefit of citizens by the Hiawatha First Nation or by a person or body authorized to do so on behalf of the

Sections 1.03 to 1.09 set out the definitions for the terms used throughout the Land Code, and other aids for interpreting the meaning of Code provisions.

Hiawatha First Nation by a land law;

- (j) “conjugal partnership” means the relationship between two persons who are married to each other or, if not married to each other, who have been cohabiting in a conjugal relationship for a period of at least two years or who are the parents of a child by birth or adoption and have been cohabiting in a conjugal relationship for a period of at least one year;
- (k) “Council” means the elected Chief and Council of the Hiawatha First Nation or any successor government of Hiawatha First Nation elected by its citizens;
- (l) “development permit” means a permit issued by Council pursuant to in section 7.03;
- (m) “eligible voter” means:
  - i. for the purpose of voting under this Land Code, a citizen who has attained eighteen (18) years of age on or before the day of the vote; and
  - ii. for the purpose of giving notice where Council has fixed a record date pursuant to subsection 5.05(e), a citizen who has attained eighteen (18) years of age on or before the record date;
- (n) “First Nations Land Registry” means the registry established by Canada pursuant to clause 51 of the *Framework Agreement* and regulated by the *First Nations Land Registry Regulations* (SOR/2007-231) enacted pursuant to the *First Nations Land Management Act*;
- (o) “*Framework Agreement*” means the *Framework Agreement on First Nation Land Management*, entered into between Canada and the signatory First Nations, dated 12 February 1996, and amended to

Section 1.03(j) provides clarification on how to determine whether a couple qualify as spouses of each other:

- Married, OR
- co-habiting for at least two years, OR
- co-habiting for at least one year if they are the parents of a child.

- include Hiawatha First Nation on April 24, 2017;
- (p) “Hiawatha First Nation land,” “HFN land” and “First Nation land” mean all of the land to which this Land Code applies;
  - (q) “Hiawatha First Nation website” and “the First Nation’s website” means an internet website maintained by the Hiawatha First Nation which may include both public pages and restricted pages accessible only by the First Nation’s citizens;
  - (r) “immediate family” includes a person’s parents, siblings and half-siblings, spouse, children and stepchildren;
  - (s) “including” does not limit generality unless the intent to limit is expressly stated;
  - (t) “Individual Agreement” means the Individual Agreement between Hiawatha First Nation and Canada pursuant to clause 6.1 of the *Framework Agreement*, including any amendments thereto;
  - (u) “interest”, in relation to Hiawatha First Nation land, means any Interest, right or estate of any nature in or to that land, including a certificate of possession, certificate of allocation, lease, easement, right of way, servitude, or *profit à prendre*, but does not include title to or a licence or permit relating to that land;
  - (v) “izhitwaawin site” means Hiawatha First Nation land designated by land law as the protected location of a feature of natural, historical, spiritual or cultural significance to the Mississaugii people;
  - (w) “land law” means a law enacted under this Land Code;
  - (x) “Lands Advisory Committee” means the committee established pursuant to Part 7

of this Land Code;

- (y) "office holder" means a person authorized by this Land Code or a land law to exercise a power or to perform any duty or function in relation to First Nation land or interests or rights in or licences relating to that land, and includes the Chief, Councillors, enforcement officers, prosecutors, citizens of any board, committee or other body and employees of the Hiawatha First Nation charged with such powers, duties or functions;
- (z) "public access land" means First Nation land which is open for use, not including residential use, by the general public pursuant to the terms of a land law, lease or other interest, right in or licence relating to that land; and
- (aa) each person in a conjugal partnership is the spouse of the other.

#### Other definitions

- 1.04 Any word or phrase which is not expressly defined in this land law but which is expressly defined in the *Framework Agreement* shall have the meaning ascribed therein.

#### Titles, headings, marginal notes

- 1.05 Titles, headings and marginal notes have been inserted in the Land Code for convenience of reference only, and are not interpretive aids.

#### Computation of time

- 1.06 The rules in sections 26 to 30, inclusive, of the *Interpretation Act*, R.S.C. 1985 c. 1-21, as amended from time to time, shall apply to all computations of time in this Land Code, provided that, notwithstanding section 26 of that Act, Council may expressly provide by resolution that a thing shall be completed or done on a holiday.

#### Consistency and paramountcy – *Framework Agreement*

- 1.07 Where any provision of this Land Code is inconsistent or conflicts with the *Framework Agreement*, the *Framework Agreement* will prevail to the extent of the

Section 1.04 states that if a term used in the Land Code is unclear and there is no definition in the Land Code itself, check the *Framework Agreement* for a definition.

Section 1.07 states that the *Framework Agreement* will overrule any conflicting provisions in the

inconsistency or conflict.

## Consistency and paramountcy – Other enactments

- 1.08 Where any provision of this Land Code is inconsistent or conflicts with the provisions of any other enactment of the Hiawatha First Nation, including a by-law enacted under the *Indian Act*, this Land Code will prevail to the extent of the inconsistency or conflict.

## Indigenous, aboriginal, treaty and constitutional rights

- 1.09 Nothing in this Land Code abrogates or derogates from the Indigenous, aboriginal, treaty, inherent rights or other rights or freedoms that pertain now or in the future to the Hiawatha First Nation or its citizens.

## PART 2: LANDS AFFECTED

### Lands and interests affected

- 2.01 This Land Code applies to all the lands of the Hiawatha First Nation described as the Hiawatha First Nation Reserve (06215) – Canada Lands Survey Record FB43299, and any other lands which may be added to the reserve or the Individual Agreement from time to time, and governs:
- (a) all the interests and rights, as well as the resources within or belonging to that land to the extent these are under the jurisdiction of Canada and are part of that land;
  - (b) the water, beds underlying water, riparian rights, and renewable and non-renewable natural resources in and of that Land, to the extent that these are under the jurisdiction of Canada;
  - (c) all the interests and licences granted by Canada listed in the Individual Agreement; and
  - (d) all the interests and licences granted by the Hiawatha First Nation after this Land Code comes into effect.

Land Code.

Section 1.08 states that the Land Code will overrule any conflicting provisions in band by-laws or other laws of the First Nation.

## PART 2: LANDS AFFECTED

At present, the Land Code applies to Hiawatha Indian Reserve No. 36, but it covers all aspects of the land within that reserve.

If any lands are added to the reserve in the future, the Land Code will apply to the added land automatically.

## PART 3: EXECUTIVE AUTHORITY

### Authority to manage land

- 3.01 Except as otherwise expressly provided in this Land Code, power and authority to manage Hiawatha First Nation Land and to implement this Land Code and land laws or other instruments enacted under it shall be vested in and carried out by Council or by any person or body to whom a power is delegated by Council or by a land law.

## PART 4: LEGISLATIVE AUTHORITY

### Power to enact land laws

- 4.01 Council has the power to make land laws in accordance with this Land Code, respecting
- (a) Interests, rights in and licences relating to Hiawatha First Nation land;
  - (b) the development, conservation, protection, management, use and possession of Hiawatha First Nation land; and
  - (c) any matter arising out of or ancillary to the exercise of that power.

### Particular powers

- 4.02 Without restricting the generality of section 4.01, Council may enact land laws as provided in this Land Code respecting:
- (a) the regulation, control or prohibition of land use and development including zoning and subdivision control;
  - (b) the creation, acquisition and granting of interests or rights in and licences relating to First Nation land and prohibitions in relation thereto;
  - (c) environmental assessment, permitting and protection, in accordance with the terms and conditions set out in the *Framework*

## PART 3: EXECUTIVE AUTHORITY

This Part gives Council the authority and responsibility to carry out all the tasks and duties specified in the Land Code or in land laws. Council can delegate some of that responsibility to First Nation government officials or bodies created for specific Land Code purposes – for example, the Lands Officer.

## PART 4: LEGISLATIVE AUTHORITY

To implement the Land Code, Council has the power to create new land laws.

Land laws can cover a wide variety of matters listed in the subsections of section 4.01.

The list in section 4.02 gives specific examples of land laws that Council can enact. Note that Council is not limited to the listed types of laws.



*Agreement;*

- (d) the provision of local services in relation to First Nation land and the imposition of equitable user charges for those services;
- (e) the provision of services for the resolution of disputes in relation to First Nation land; and
- (f) enforcement measures, consistent with federal laws, including the power to inspect, search and seize and to order compulsory sampling, testing and the production of information.

**Enforcement of land laws**

- 4.03 A land law, regulation or other instrument may include enforcement measures consistent with federal laws and, without limiting generality, may create offences punishable in accordance with the summary conviction procedures of Part XXVII of the *Criminal Code*, as amended from time to time, and may provide for the imposition of fines, imprisonment, restitution, community service and any other means for achieving compliance provided therein.

**Regulations, standards, code and policies**

- 4.04 A land law may authorize Council to enact or adopt regulations, standards, codes or policies, by resolution in open session, which shall be enforceable as provided in the land law.

**PART 5: ENACTMENT OF LAND LAWS****Definition**

- 5.01 In this Part, “land law proposal” means a written proposal for a land law, setting out
- (a) the subject matter of the proposed land law and what it is intended to accomplish;
  - (b) the benefit of the proposed land law to Hiawatha First Nation;
  - (c) optionally, an outline or draft of the

Section 4.03 states that a land law can include enforcement provisions, and can create powers of inspection, offences and penalties.

Section 4.04 gives Council the power to enact other types of rules governing land use in addition to land laws.

**PART 5: ENACTMENT OF LAND LAWS**

This Part sets out the process for enacting land laws, which starts with a “land law proposal.”

**What is a land law proposal?**

A land law proposal is a written document setting out: (a) what the land law is about; (b) what it is designed to accomplish; (c) its benefit to the HFN community; and

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provisions of the proposed land law; and

- (d) the provision or provisions of this Land Code authorizing Council to enact the proposed land law.

### **Motion to consider a land law proposal**

5.02 Any member of Council may, by motion in an open session of Council, submit a land law proposal for consideration.

### **Introduction of land law proposal by eligible voter**

5.03 An eligible voter may, at the time provided in the agenda of an open session of Council, or with the leave of the Chair at an open session of Council, request that Council consider a land law proposal.

### **Council procedure upon receipt of land law proposal**

5.04 Upon or subsequent to adopting a resolution to consider a land law proposal, Council may, in an open session of Council:

- (a) request that the proposer or any other person, committee or body including the Lands Advisory Committee provide further information, documentation or review in relation to the land law proposal;
- (b) undertake or direct the preparation of draft wording for a land law concerning matters raised in the land law proposal;
- (c) if the land law proposal includes or is in the form of a draft land law satisfactory to Council, table the draft land law for enactment; or
- (d) decline the land law proposal.

### **Tabling a draft land law**

5.05 A resolution tabling a draft land law for enactment shall include:

- (a) the draft wording of the proposed land law, which shall be subject to amendment until enacted by Council;
- (b) the purpose or intent of the land law, the

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(d) the Land Code sections which authorize Council to enact it.

### **When can land law proposals be submitted?**

At an open session of Council.

### **Who can submit a land law proposal?**

- Any member of Council
- Any eligible voter, when the meeting agenda provides for such opportunity, or with permission from the Presiding Officer or Chair of the meeting upon request to consider a land law proposal.

### **How are land laws passed?**

A land law proposal is submitted at an open meeting of Council in the form of a resolution “that Council consider enacting a land law to \_\_\_\_\_.”

If the motion to consider the proposal passes, Council may adopt a further resolution to:

- a. request further review, or that more information be submitted;
- b. begin or direct the drafting of the land law;
- c. if already drafted, table the draft land law for enactment; or
- d. decline the proposal.

Where Council finds the draft land law satisfactory, a resolution tabling the draft for enactment is

source of Council's authority to enact the land law and the benefit of the land law to the Hiawatha First Nation;

- (c) the date, time, location and other particulars of any community consultation or community approval which may be required in respect of the draft land law;
- (d) the date, time and location of an open session of Council, not less than 28 days after the date of the tabling resolution, at which Council may consider the enactment of the draft land law; and
- (e) other matters relevant to the enactment process, including a citizenship record date for notice purposes and any additional methods of providing notice to eligible voters as provided in section 5.05(c), as Council deems necessary.

#### Notice that draft land law was tabled

5.06 At least 21 days before the date of the first open session of Council at which the draft land law may be enacted, Council shall cause notice to be given to the eligible voters by:

- (a) posting a copy of the tabling resolution on a notice board accessible to citizens in the administration offices of the Hiawatha First Nation;
- (a) posting notice or a copy of the tabling resolution on a citizen-accessible portion of the Hiawatha First Nation website; and
- (b) any other methods specified in the tabling resolution or other resolution of Council.

#### Community consultation

5.07 Council shall consult with the First Nation's eligible voters in a community meeting prior to enacting any of the following:

- (a) a grant or disposition of an interest, right in or licence relating to community land by the First Nation to a person other than a

required. See section 5.05 for the tabling resolution requirements.

Subsection 5.05(d) states that land laws can only be enacted in open sessions of Council. There must be at least 28 days between tabling and enacting.

Section 5.06 states a notice of the tabling resolution must be given to eligible voters at least 21 days before Council's first open session to consider the enactment of the draft land law. See section 5.06 for the notice requirements.

Section 5.07 states certain laws require community consultation before they are enacted:

- a grant or an interest, right in or licence to a non-citizen for longer than 25 years

citizen for a term exceeding 25 years;

- (b) a law to govern expropriation procedure or any particular expropriation for community purposes pursuant to **Error! Reference source not found.**;
- (c) a land law which creates an offence punishable under Part XVII of the *Criminal Code*;
- (d) any land law or class of land law that Council, by resolution, declares to be subject to community consultation.

#### Community approval

5.08 Land laws in respect of the following matters may be enacted by Council only with community approval:

- (a) comprehensive land use planning and approval controls for Hiawatha First Nation land, as provided in subsection 7.02(a);
- (b) an environmental stewardship law affecting all or substantially all of the land within the reserve, as provided in subsection 7.02(b);
- (c) the designation of an izhitwaawin site and any amendment or cancellation of a designation;
- (d) general rules and procedures respecting, in cases of breakdown of marriage and other conjugal partnerships, the use, occupation and possession of Hiawatha First Nation land and the division of interests or rights in that land;
- (e) any matter submitted to the eligible voters pursuant to the conflict of interest rules in **Error! Reference source not found.**
- (f) any voluntary exchange of Hiawatha First Nation Land referred to in 0 of this Land Code; and
- (g) any land law or class of land law that Council, by Resolution, declares to be

- a land law dealing with expropriation procedures or a specific expropriation
- a land law that creates offences punishable under the Criminal Code

5.07(d) allows Council to require community consultation on a proposed land, even if the land law is not listed in section 5.07.

Section 5.08 states land laws on certain matters must be approved by a vote among the eligible voters before they can be passed by Council.

subject to community approval.

#### Particulars of community approval process

5.09 Council may adopt a resolution regarding the procedure for obtaining a community approval including, without limitation, the role of the Lands Advisory Committee, if any; the date, time, place of the vote of the eligible voters; the manner in which the vote shall be conducted including the methods of voting; and any minimum number of votes which must be cast for the vote to be certified by the voting officer.

Section 5.09 states Council may provide for community vote procedures, including the method of voting and when voting will take place. The Lands Advisory Committee may also assist an community approval vote when needed.

#### Voting Officer

5.10 Council may appoint a voting officer responsible to conduct a community approval vote including such matters as finalizing the voters list; preparing the ballot; the giving of notice; registering voters; conducting the vote on the date and time and in the place determined by resolution of Council; tallying such votes as the voting officer determines to be valid; certifying the results of the vote; and any other matters ancillary thereto including appointing one or more deputy voting officers.

#### Majority approval

5.11 A matter submitted for community approval shall be approved if:

- (a) a majority of eligible voters who participated in the vote voted to approve the matter; or
- (b) where Council by resolution prescribed a minimum number of votes required to be cast for the vote to be certified, the number of votes cast equaled or exceeded that minimum and a majority of the unspoiled votes cast approved the matter.

Section 5.11(a) states that for a matter to be approved by community vote, a majority of the votes cast must be in favour.

5.11(b) states for specific community approval votes, Council may require that a minimum number of eligible voters cast a vote (a vote quorum) in order for approval to be obtained.

#### Notice of community processes

5.12 Where notice is required to be delivered to eligible voters pursuant to a resolution of Council or this Land Code:

Section 5.12 sets out what information must be contained in a notice sent to eligible voters for a community meeting or for a community approval vote.

- (b) the notice shall include:
  - i. a brief description of the matter to be discussed or decided and a draft of, or internet link to, the land law in respect of which Council is seeking community consultation or community approval;
  - ii. the date, time and place of any information meeting, community consultation or community approval;
  - iii. in the case of a community approval, the questions to be submitted to a vote and the methods and other particulars of the voting process including the minimum number of votes required to be cast for the vote to be certified, if a minimum is prescribed;
  - iv. other information and material that Council considers appropriate.
- (c) the notice shall be posted in a public place in the First Nation's administration offices, on the First Nation's website;
- (d) the notice, in paper form, or electronic copy of the notice on a portable storage device, shall be
  - i. sent by mail or email to those citizens or eligible voters for whom the Hiawatha First Nation has obtained an email or mailing address as of a record date fixed by resolution of Council; and
  - ii. made available in the First Nation's administration offices to any eligible voter who requests it; and
- (e) a single notice sent by email or mail to multiple eligible voters who share an email or mail address as at the record date shall be deemed to be notice to all such eligible voters.

Section 5.13 states that once a draft land law has been tabled and

**Resolution to enact a land law**

5.13 A resolution enacting a land law shall include recitals confirming:

- (a) that a draft of the land law was tabled and that notice of the tabling of the draft land law given to eligible voters as provided in this Part;
- (b) that Council has determined that all procedures required for the enactment of the land law, including, without limitation, tabling and notice requirements, community consultation were duly completed, that and any required community approval was obtained, and that any procedural irregularities were minor and of no material effect;
- (c) that the wording proposed for enactment is either
  - i. unamended from the draft land law as tabled and as included in any notice to eligible voters; or
  - ii. amended, but:
  - iii. in the case of a land law for which community approval was required, that the amendments were to correct typographical errors or drafting errors or for clarity, and, in the opinion of Council, do not alter the substance or intent of the draft land law provided for the purpose of the vote; and
  - iv. in the case of a land law for which community approval was not required, that the amendments were either to correct typographical errors or drafting errors or for clarity or to respond to issues raised by citizens or others, and that, in the opinion of Council, the amendments do not alter the substance or intent of the draft land law.

has gone through the necessary community consultation and approval processes, a resolution enacting the land law may be passed at an open session of Council.

All the matters that must be included in the enacting resolution are set out.

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### Emergency land law

5.14 Notwithstanding any other provision of this Land Code:

- (a) Council may enact an emergency land law without the preliminary steps required in sections 5.04 to 5.13 inclusive, where Council is of the opinion that the law is needed urgently to protect Hiawatha First Nation Land or the citizens or other persons within those lands.
- (b) a resolution enacting an emergency land law shall specify the in force date and the expiry date of the Emergency land law and shall provide for the giving of notice of the enactment to citizens and others; and
- (c) an emergency land law shall expire 180 days after its enactment but may be re-enacted in accordance with this section 5.14.

### Approval of enacting resolution

5.15 A land law is enacted if it has been approved by a majority vote of the Council at a meeting of the Council in open session.

### Eligible voters may vote in own interest

5.16 Notwithstanding the conflict of interest provisions of this Land Code, any eligible voter may vote in any community approval in his or her own interest.

### When in force

5.17 A land law, regulation or other instrument shall be in force on the date of its enactment or such other date as may be specified in the enactment or instrument.

## PART 6: CERTIFICATION, PUBLICATION AND REGISTRATION OF LAND LAWS AND OTHER INSTRUMENTS

### Certification

6.01 A land law, regulation, standard, code, policy or other instrument enacted by Council containing the recitals required by section 5.13 shall be deemed validly

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### Emergency land laws

Council may enact an emergency land law without going through the steps detailed above, where the law is urgently needed to protect HFN land, HFN citizens or other persons on such land. An emergency land law expires 180 days after its enactment, but may be re-enacted again on the same emergency basis.

## PART 6: CERTIFICATION, PUBLICATION AND REGISTRATION

This Part sets out how official copies of land laws are created and published. It also provides for the establishment of an HFN Land Law Registry in which all land laws will



enacted and certified if signed by:

- (a) a quorum of the Council present at the meeting at which it was enacted or adopted; or
- (b) such other person designated for certification purposes by resolution of the Council.

## Publication

6.02 Every land law, regulation, standard, code or policy shall be recorded in the minutes of the Council meeting at which it is adopted and published within ten days after enactment by posting a certified copy for not less than sixty days:

- (a) on a notice board accessible to Citizens in the administration offices of Hiawatha First Nation;
- (b) on a citizen-accessible portion of the Hiawatha First Nation website; and

and where Council so directs, by publication of a notice of the land law or other instrument in the *First Nations Gazette* or a similar publication.

## HFN Land Law Registry

6.03 Council shall establish and maintain a Hiawatha First Nation Land Laws Registry under the direction of a Registrar of Land Laws.

## Books of record

6.04 The Registrar of Land Laws shall maintain the following books of record:

- (a) a depository containing original or electronic images of certified copies of Land Code enactments and other instruments submitted by Council and accepted for registration, together with any supporting documentation required by the Land Code or included by reference in the enactment, endorsed by the Registrar with the time and date of registration; and
- (b) a land laws abstract index containing an

be deposited for inspection by members and others.

Section 6.02 states all enacted land laws must be published within 10 days of enactment on a notice board in the HFN administrative offices and on the HFN website.

## The HFN Land Laws Registry:

All land laws enacted by Council will be recorded and stored in a proposed new HFN Land Laws Registry. Any person will be entitled to inspect the land laws and to obtain copies from the Registrar on payment of a small administrative charge.

Note that land laws that apply to one or more specific parcels of reserve land may also be registered against those parcels in the **First Nations Land Registry** maintained by Canada.

abstract of each registered instrument, including a notation of whether the instrument is in force, spent or repealed, organized by the parcels of Hiawatha land, including any reserves as a whole, to which each instrument applies.

**HFN Land Laws Registry Regulations**

6.05 Council may enact regulations from time to time governing the operation of the Hiawatha First Nation Land Laws Registry.

**Registration of land laws and other instruments**

6.06 Subject to the establishment of the Hiawatha First Nation Land Laws Registry, Council shall submit to the Registrar of Land Laws a certified copy of every land law, regulation, standard, code or policy adopted by Council pursuant to this Land Code, signed by a majority of a quorum of Council or by a person appointed by Council to certify its enactments, for registration or recording against the lands affected, including notices that instruments previously registered or recorded have been amended, repealed or are no longer in force.

**Public access**

6.07 Any person may have reasonable viewing access to the land laws register, the land laws abstract index and registered instruments during normal business hours in the administrative offices of Hiawatha First Nation, and may obtain from the Registrar of Land Laws a copy of any registered instrument on payment of an administrative fee fixed by Council, provided that the Registrar of Land Laws shall redact from the publicly viewable portions of the register, the abstract index, any registered instruments and any copies thereof, which the First Nation is prohibited from disclosing without the prior consent of a third party, unless that consent is provided.

**PART 7: LAND MANAGEMENT****Land management powers of Council**

7.01 Council may, in accordance with this Land Code,

(a) exercise the powers, rights and privileges of

Section 6.06 states that once the HFN Land Laws Registry is created, Council must provide certified copies of all documents listed in 6.06 to be added to the Registry.

Section 6.07 gives any member of the public the right of access to the HFN Land Laws Registry and the right to obtain official copies of land laws and regulations.

**PART 7: LAND MANAGEMENT**

This Part sets out Council's authority to establish and implement a system of land

- an owner in relation to the lands to which this Land Code applies;
- (b) grant interests or rights in and licences relating to the land;
  - (c) manage the natural resources of the land; and
  - (d) receive and use all moneys acquired by or on behalf of the Hiawatha First Nation pursuant to this Land Code and land laws or other instruments enacted under it.

**Land use planning, environmental stewardship and resource revenues**

7.02 Without limitation of Council's management powers provided in section 7.01, Council shall be committed to the development and implementation, in consultation with citizens, of the following land management laws and policies:

- (a) comprehensive land use planning and approval controls for Hiawatha First Nation land, including:
  - i. a general land use plan and development scheme for the lands to which this Land Code applies,
  - ii. zones of permitted and prohibited land uses;
  - iii. controls on the subdivision of land; and
  - iv. authorities, processes and procedures for reviewing land use and development plans before any person may construct or replace works or change the permitted use of land;
- (b) environmental stewardship laws for Hiawatha First Nation land providing for environmental assessment, permitting and protection in accordance with the procedures, terms and conditions set out in the *Framework Agreement*;

management, including

- grants of rights in land, including interests like certificates of allocation, permits and licences;
- creation of land use plans;
- an environmental stewardship regime;
- rules respecting the division of interests/rights in land on the breakdown of marriage and conjugal partnerships;
- mechanisms to produce and collect revenues from natural resources and the provision of local services; and
- other financial management and accounting policies.

Note that land laws on these topics must be developed in consultation with HFN citizens.

- (c) general rules and procedures respecting, in cases of breakdown of marriage and other conjugal partnerships, the use, occupation and possession of Hiawatha First Nation land and the division of interests or rights in that land;
- (d) general rules, procedures and policies respecting revenues generated from:
  - i. natural resources produced or obtained from First Nation land; and
  - ii. the provision of local services in relation to First Nation land and the imposition of equitable user charges for those services; and

**Interim Development Controls**

7.03 Until the enactment and coming into force of a comprehensive land use plan and environmental stewardship laws for Hiawatha First Nation, no person may undertake, construct, complete, occupy, use or operate premises on Hiawatha First Nation land for any purpose other than family residential use except as authorized by a development permit issued by Council on the basis of a land uses review including, where Council so directs, an environmental assessment conducted in accordance with Annex “F” of the Individual Agreement.

Section 7.03 states that following the ratification of the Land Code and in the time between the enactment of the Land Use Plan and Environmental Stewardship laws, no person may develop or use HFN Land for any purpose other than residential purposes without a permit from Council.

**Advisory Committees and Working Groups**

7.04 Council may from time to time appoint advisory committees or working groups to assist in community meetings and other forms of community engagement, to advise Council with respect to the implementation and application of this Land Code and the development of laws, policies and regulations and to perform such other duties as may be delegated or assigned by resolution of Council or by land law under this Land Code.

Section 7.04 states Council may appoint a Lands Advisory Committee to assist and advise Council on land management matters.

**PART 8: REPORTING AND ACCOUNTABILITY****PART 8: REPORTING AND ACCOUNTABILITY****Financial Management**

8.01 All financial matters in relation to the management of

Council is required to provide HFN

land under this Land Code shall be subject to financial administration and accounting laws or policies approved by the First Nations Financial Management Board or compliant with International Financial Accounting Standards, as approved by Council from time to time

#### Annual Land Management Report

8.02 Within six months of the First Nation's fiscal year end in each year, Council shall publish for the benefit of citizens an Annual Land Management Report which shall include, for the reported period:

- (a) a summary of:
  - i. interests, rights in or licences created, granted, terminated or cancelled in Hiawatha First Nation land, including any expropriations;
  - ii. land laws, regulations, standards, codes or policies enacted by Council or coming into force; and
  - iii. the findings and recommendations of any completed operational, financial or governance review;
- (b) an update on the implementation of section 7.02; and
- (c) an audited financial statement with respect to revenues generated from interests, rights in or licences relating to First Nation land and from natural resources and local services, prepared and presented in compliance with accounting rules approved by the First Nations Financial Management Board or with International Financial Accounting Standards, as approved by Council from time to time.

#### Availability of prior year reports

8.03 Annual Land Management Reports shall remain available to citizens on the First Nation's website, or in hardcopy form on written request, for a period of not less than four years from the date of original

citizens with an Annual Land Management Report. The report will cover laws enacted, interests, permits and licences created or granted, income from lands, Council's progress on its land management responsibilities (see section 7.02), plus an audited financial statement for all Land Code activities.

publication.

## PART 9: INTERESTS AND OTHER RIGHTS IN HIAWATHA FIRST NATION LAND

### Prior interests and rights

9.01 Interests and other rights in Hiawatha First Nation land held by citizens pursuant to allotments under subsection 20(1) of the *Indian Act* or pursuant to the custom of the Hiawatha First Nation on the coming into force of this Land Code are continued, subject to the provisions of this Land Code and land laws enacted under it governing the transfer, assignment or leasing of interests or rights in First Nation land and the generation of revenue from natural resources.

### Indian Act provisions continued in force

9.02 In accordance with the *Framework Agreement*, sections 29 and 87 and subsections 89(1), 89(1.1) and 89(2) of the *Indian Act*, as amended from time to time, continue to apply to Hiawatha First Nation land.

### Creation of interests and licences by Council

9.03 Subject to this Land Code, Council may by resolution create and grant the following interests, rights in or licences relating to First Nation land:

- (a) A community purpose certificate reserving the use and occupation of community land or creating an easement, right or way or permit in community land for community works;
- (b) a certificate of allocation granting to a citizen or citizens jointly or in common the right of exclusive use and occupation of a parcel of Hiawatha First Nation land for residential purposes;
- (c) a lease granting to any person the right of exclusive use and occupation of a parcel of community land for a specified term;
- (d) a permit or a licence granting to any person a right to harvest, use or extract and appropriate natural resources found within

## PART 9: INTERESTS AND OTHER RIGHTS IN HIAWATHA FIRST NATION LAND

Interests and other rights in HFN land held by HFN citizens before the date that the Land Code comes into effect will continue to be enforceable under the Land Code.

Section 9.02 brings certain *Indian Act* protections into the Land Code: First Nation land is protected from seizure.

Section 9.03 lists the kinds of interests, permits and licences which can be created under the Land Code.

specified First Nation land;

- (e) a transfer of the interest, right or licence of a deceased citizen to the person who is entitled at law to the interest, right or licence;
- (f) a transfer of community land in exchange for other land in accordance with PART 15; and
- (g) comprehensive and other land use planning and approval controls including an izhitwaawin site designation.

#### Conditional grant

- 9.04 An interest, right in or licence relating to First Nation land granted by Council may be subject to the satisfaction of terms or conditions specified in the grant.

Section 9.04 states any interest or grant made by Council may be subject to special terms and conditions – e.g. environmental controls.

#### Certificates of possession or allocation

- 9.05 A citizen in possession of Hiawatha First Nation land pursuant to a registered certificate of possession or certificate of allocation may:

Section 9.05 sets out the rights of a citizen holding a certificate of possession or certificate of allocation of First Nation land.

- (a) devise, transfer or assign all of the interest evidenced by the certificate to any other citizen;
- (b) grant to any person a lease, permit or licence authorizing the use the land or any part thereof in accordance with the terms of the original certificate and subject to this Land Code and applicable land laws governing land use; or
- (c) transfer the certificate of possession or certificate of allocation to the Hiawatha First Nation for cancellation.

#### Transfer for cancellation

- 9.06 A certificate of possession or certificate of allocation may be transferred to the Hiawatha First Nation for cancellation

#### Leases and licences may be pledged

- 9.07 A leasehold interest in or licence relating to Hiawatha

Section 9.07 states leases and licences can be pledged as security

## TEXT OF THE HIAWATHA FIRST NATION LAND CODE

land may be subject to charge, mortgage or pledge.

### **Certificate of possession or allocation may not be pledged**

- 9.08 A certificate of possession or allocation shall not be subject to charge, mortgage or pledge except to Hiawatha First Nation.

### **Revocation and cancellation**

- 9.09 Council may by resolution revoke or cancel an interest, right in or licence relating to First Nation land licence which has determined or expired or which has been acquired by the Hiawatha First Nation by surrender, transfer or operation of law.

### **Enforceability**

- 9.10 An interest, right in or licence relating to Hiawatha First Nation Land, including a charge, mortgage or pledge of a lease, licence or permit in accordance with section 9.08, and a transfer, disposition, release, surrender, cancellation or revocation thereof, shall be unenforceable unless evidenced by an instrument in writing registered or recorded in the First Nations Land Registry or such other registration system as Council may specify by land law adopted with community consultation as provided in section 5.07.

### **Alternate decision-maker**

- 9.11 A person appointed pursuant to a law of Canada, Ontario or Hiawatha First Nation as an alternate decision-maker, agent or attorney for a citizen who is a minor or under a disability may grant, dispose of, devise, transfer or assign an interest, right in or licence in relation to First Nation Land belonging to that citizen, provided that, and in exercising his or her power or authority, the alternate decision-maker shall give priority to protecting and respecting the connection of that citizen to Hiawatha First Nation land and the importance of land to the understanding and exercise of indigenous rights and Mississaugii culture and traditions.

### **Forms**

- 9.12 Council may by prescribe forms for the creation, granting, transfer, assignment or other disposition of interests, rights in or licences relating to Hiawatha First Nation Land.

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for loans. See section 9.02 regarding the limited enforcement powers of lenders – they can seize the lease, but not the land.

Section 9.08 states CPs and CAs may not be pledged as security for loans except to HFN.

Section 9.10 states that an interest, permit, licence, mortgage or charge of land is enforceable unless it is (i) in writing, and (ii) registered in the First Nations Land Registry maintained by Canada.

Section 9.11 states a person legally appointed to act for a HFN citizen who is a minor or under a disability may grant, dispose of, devise, transfer or assign the citizen's interests or licences, so long as the decision is in the citizen's best interests.

The importance of the citizen's connection to HFN land and Mississaugii culture and traditions must inform any decision.



## PART 10: DISPOSITION OF LAND ON THE DEATH OF A CITIZEN

### *Indian Act provisions which continue to apply*

10.01 Subject to the laws of Hiawatha First Nation in respect of family homes and matrimonial interests, and until Hiawatha First Nation exercises jurisdiction in relation to wills and estates, the provisions of the *Indian Act* relating to the disposition of the interests, rights in or licences relating to Hiawatha First Nation land on the death of a citizen shall continue to apply.

### *Right of registration*

10.02 Subject to section 9.03, the estate trustee or personal representative of the deceased citizen, or a citizen who is entitled at law to the interest, right in or licence relating to Hiawatha First Nation land of the deceased citizen, shall be entitled to the issuance by Council of an instrument evidencing that interest, right or licence and to have that instrument registered in the First Nations Land Registry upon production of:

- (a) the direction in writing of the estate trustee or personal representative of the deceased appointed by a court of law;
- (b) an order of the Minister pursuant to the *Indian Act*, or
- (c) an order of a court of competent jurisdiction which is of full force and effect on the date of registration.

## PART 11: RIGHTS OF RESIDENCY AND ACCESS

### *Right of residence*

11.01 The following persons may reside on Hiawatha First Nation Land:

- (a) a citizen, the spouse or child of a citizen, a grandchild of the citizen residing with the citizen, and any person who is in the custody of the citizen by order of a court of

## PART 10: WHAT HAPPENS TO A CITIZEN'S LAND ON DEATH

The provisions of the *Indian Act* dealing with what happens to a citizen's land entitlements on death will continue to apply until HFN enacts land laws to replace those provisions.

Section 10.02 states a person who has been appointed as the executor or administrator of a deceased citizen, either by the Minister or by a court of law, is entitled to be recognized as the owner of the deceased's lands.

## PART 11: RIGHTS OF RESIDENCY AND ACCESS

This Part lists the persons who may reside on HFN land (section 11.01), and the persons who have a right of access to HFN land (section 11.02).

Persons entitle to live on HFN Land:

- a citizen

competent jurisdiction;

- (b) a tenant pursuant to a lease which expressly includes a right of residence;
- (c) a person authorized to reside on Hiawatha First Nation land by a land law or any other law of the Hiawatha First Nation or by applicable laws relating to family homes and matrimonial interests; and
- (d) an invitee of a person described in subsections (a), (b) or (c), other than a person barred from residing on Hiawatha First Nation land by a resolution of Council.

#### Right of Access

11.02 The following persons have a right of access to Hiawatha First Nation land:

- (a) a person entitled to reside on Hiawatha First Nation land pursuant to section 11.01;
- (b) a person entitled to access Hiawatha First Nation land pursuant to an interest, right or licence;
- (c) a person authorized by a resolution of Council, a land law or other law of the First Nation to access Hiawatha First Nation land; and
- (d) an invitee of any person described in subsections (a), (b) or (c), other than a person who is not a citizen and who is barred from accessing Hiawatha First Nation land by a resolution of Council.

#### Use of public access lands

11.03 Any person may use public access lands including public roads in accordance with applicable laws.

#### Trespass

11.04 Any person, who resides on, enters on, uses or remains on Hiawatha First Nation land, except in accordance with a right of residence described in section 11.01, or a right of access or use described in

- a citizen's spouse or child

Section 11.02 lists persons who are allowed to enter HFN land.

Section 11.04 states anyone other than those persons listed in 11.01, 11.02 or 11.03 who live, enter or use HFN land are guilty of trespass.

sections 11.02 or 11.03, is guilty of an offence.

**Civil remedies**

11.05 All civil remedies for trespass are preserved.

**PART 12: DISPUTE RESOLUTION****Voluntary dispute resolution**

12.01 A person who wishes to seek the resolution of a dispute with the Hiawatha First Nation or another person in relation to the management, possession, use or occupation of or provision of services to Hiawatha First Nation Land may submit to Council a written request for dispute resolution pursuant to this Part.

**Disputes to which this Part is not applicable**

12.02 Notwithstanding section 12.01, the following matters may not be submitted for dispute resolution pursuant to this Part:

- (a) the administration or distribution of an estate;
- (b) a housing allocation;
- (c) a decision of Council to grant or refuse to grant or transfer an interest, right in or licence relating to Hiawatha First Nation land;
- (d) a decision relating to an expropriation under this Land Code;
- (e) except with the prior consent of Council, any matter in respect of which an enforcement proceeding has been commenced under this Land Code or under any land law or other regulatory instrument, and any judgment, penalty or other order, outcome or appeal of any such proceeding; and
- (f) any matter governed by a written agreement or law which prescribes another

Section 11.05 means HFN may ask the court to impose actions or sanctions against someone guilty of trespass.

**PART 12: DISPUTE RESOLUTION**

The Land Code provides an optional dispute resolution process for land issues. Use of the process depends on the consent of all parties involved.

The optional dispute resolution process in this Part is not available for certain types of disputes, as listed in section 12.02.

form of dispute resolution.

#### Content of request for dispute resolution

12.03 A request for dispute resolution pursuant to this Part shall concisely set out:

- (a) the parties to the dispute;
- (b) the disputed matter or the nature of the dispute;
- (c) the relief that is sought; and
- (d) the dispute resolution process or processes through which the person agrees to seek resolution, which may include one or both of the following in sequence:
  - i. discussions between the parties facilitated by a mediator appointed by Council who shall seek to assist the parties in reaching a mutually agreeable resolution of the dispute; or
  - ii. binding arbitration by an arbitrator appointed by Council.

#### Agreement of parties required

12.04 Council, prior to accepting a dispute for resolution under this Part, shall require the written agreement of all the parties whom Council deems to be necessary to the resolution of the dispute with respect to the following:

- (a) a statement of the disputed matter or nature of the dispute;
- (b) the dispute resolution process or sequence of processes;
- (c) the appointment by Council of a mediator or arbitrator; and
- (d) each party's commitment to participate in the dispute resolution process or sequence of processes and to be bound by the rules and outcomes of the process including any orders as to costs.

Section 12.03 sets out what must be included in a request for dispute resolution.

Two different dispute resolution processes are available under this Part: (i) discussions facilitated by a mediator and (ii) binding arbitration.

To access the optional dispute resolution process, all the parties involved must agree in writing on the following points:

- what the dispute is about;
- whether mediation or arbitration is appropriate;
- that the mediator or arbitrator will be selected by Council; and
- that every party will fully participate in the process and be bound by the outcomes, including any order for costs.

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### Acceptance

12.05 Where Council accepts a dispute for resolution under this Part, it may by resolution appoint or provide for the appointment of one or more persons to act as mediator or arbitrator of the dispute, and in respect of any such resolution the members of Council shall be deemed not to be in a conflict of interest.

### Powers of mediator or arbitrator

12.06 Subject to section 12.07, a mediator or arbitrator shall have all the powers and authority reasonably necessary to implement the terms of the dispute resolution agreement and to decide any substantive or procedural matter arising in the course of the dispute resolution process.

12.07 Council may by land law, regulation, code or policy prescribe rules to govern the conduction of the dispute resolution process which shall be binding on the parties and the mediator or arbitrator.

### Termination by mutual agreement or decision

12.08 A dispute resolution process may be terminated:

- (a) by Council where it determines that the parties are not in compliance with section 12.04;
- (b) by an agreement of the parties in writing; or
- (c) by the issuance to Council and the parties of a decision in writing of the mediator or arbitrator deciding the dispute in whole or in part, or determining that continuance of the process is not likely to advance the resolution of the dispute.

### Order for costs

12.09 Upon termination of facilitated discussions or an arbitration, the mediator or arbitrator, or, in default thereof, Council, may order that any party pay:

- (a) all or part of the costs thereof to the Hiawatha First Nation; and
- (b) all or part of the costs of any other party to

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On delivery of a signed agreement by the parties on the items listed above, Council may accept the dispute for resolution under this Part.

Section 12.06 lists the powers of a mediator or arbitrator appointed by Council.

Section 12.07 states that Council may create the rules for how the dispute resolution is conducted.

Section 12.08 details how a dispute process comes to an end.

Section 12.09 outlines who may be responsible for the costs of a dispute resolution process.

that other party;

which order shall be immediately due and payable and enforceable as a debt of the party against whom the costs are ordered.

#### Dispute resolution orders binding

12.10 An order of a mediator or arbitrator pursuant to this Part shall be binding upon the parties.

#### Other dispute resolution methods

12.11 Nothing in this Part shall be construed to prevail over the dispute resolution provisions prescribed by a written agreement or law or the right of any person to pursue resolution of a dispute without recourse to this Part.

### PART 13: CONFLICTS OF INTEREST

#### Conflicts of interest

13.01 An office holder is in a conflict of interest when he or she exercises an official power, duty or function that provides an opportunity for that official to materially further his or her private interests or those of his or her immediate family or business associates, other than an interest held in common with all other citizens, or to improperly further another person's private interests.

#### Avoidance of conflicts of interest

13.02 An office holder shall not make a decision or participate in making a decision, or exercise a power, duty or function under this Land Code or any land law if, in the making of the decision, he or she would be in a conflict of interest.

#### Recusal

13.03 An office holder shall recuse himself or herself from any discussion, decision, debate or vote on any matter in respect of which he or she would be in a conflict of interest, and take appropriate steps to ensure the recusal is recorded in an official record with sufficient detail to identify the conflict of interest that was avoided.

#### Inability to act - Council

Section 12.10 states that after a successful mediation, and at the conclusion of arbitration, the orders are binding on the parties.

Section 12.11 states dispute resolution is not available where the parties have already agreed to a different method – for example, in an employment contract.

### PART 13: CONFLICTS OF INTEREST

A conflict of interest occurs when a person on Council or appointed as an official under the Land Code (an "office holder" as defined in section 1.03 (y)) may gain a personal benefit from acting in their official capacity.

Section 13.02 states an office holder must disclose all conflicts of interest and must not participate in any decision-making under the Land Code where there would be a conflict of interest.

Section 13.03 states where an office holder finds themselves in a conflict of interest, they must disclose the conflict and cannot participate in the discussion, decision, debate, or vote on that matter.

## TEXT OF THE HIAWATHA FIRST NATION LAND CODE

13.04 Where the Council cannot achieve or maintain quorum in respect of a matter by reason of recusals, the Council may by resolution direct that the matter shall be decided by a community approval vote conducted in accordance with sections 5.08 to 5.12 inclusive and, for the purposes of such resolution, none of the members of Council shall be deemed to have a conflict of interest.

### Inability to act – board, committee or other body or person

13.05 If a board, committee or other body or person authorized by this Land Code or a land law to exercise a power or to perform any duty or function in relation to First Nation land or interests, rights or licences therein is unable to act in respect of a matter due to a conflict of interest, the board, committee or other body or person may, notwithstanding the conflict of interest, refer the matter to Council.

### Transactions not void

13.06 A transaction, resolution, act or decision shall not be void or a nullity by reason only of an office holder's failure to comply with this Part.

### Office holders – duties and responsibilities

13.07 Council may enact laws regarding the probity, duties and responsibilities of office holders, and creating offences and prescribing penalties relating to abuses of office including improper influence, the acceptance of gifts and the use of insider information.

## PART 14: EXPROPRIATION FOR COMMUNITY PURPOSES

### Expropriation where necessary for community works

14.01 Subject to section 14.06, where Council determines by resolution that

- (a) the acquisition of all or part of an interest, permit or licence relating to Hiawatha First Nation Land, or any improvement, use or structure thereon, is necessary for community works; and
- (b) the Hiawatha First Nation has made a good faith effort to acquire the interest, right in

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Section 13.04 states that if Council is also unable to deal with a matter because of conflicts of interest, it can submit the matter to a vote of eligible voters.

Section 13.05 states if a board, committee, or other body is unable to act due to a conflict of interest, they may refer the matter to Council.

Section 13.07 states Council can enact a land law which sets out standards of conduct for office holders, and which create offences and penalties for abuse of powers.

## PART 14: EXPROPRIATION

The Land Code permits taking of land where (a) acquiring an interest in HFN land held by a citizen is necessary for the benefit of the community – for example, for community infrastructure; and (b) good faith efforts to acquire the interest from the citizen have been unsuccessful.

However, the taking can only proceed if there is full community

or licence or part thereof from the owner or occupant by mutual agreement but no agreement has been reached and, in the opinion of Council, it is unlikely that a mutual agreement can be reached;

the Council may enact a land law, with community consultation and in accordance with the *Framework Agreement* and this Part, expropriating the interest or licence or part thereof.

#### Compensation

14.02 The First Nation shall be liable to pay fair compensation to the person legally entitled to an interest on expropriation, based on the heads of compensation set out in the *Expropriation Act*, R.S.C., 1985, c. E-2, including, where part of an interest is expropriated, compensation for the value of the expropriated portion of the interest, right in or licence and for the severance damage to the remaining portion of the interest, right in or licence.

#### Effective date of expropriation

14.03 No expropriation of an interest, right in or licence pursuant to this Part shall take effect before the later of the following:

- a. the date the notice of expropriation is registered in the First Nation Lands Register; or
- b. the 30th day after the day the notice of expropriation is served in the manner required by the rules to be enacted pursuant to section 14.05.

#### Effect of expropriation

14.04 An expropriated interest becomes community land of the First Nation, free of any prior claims or encumbrances.

#### Procedural land law

14.05 Prior to initiating any expropriations under this Part, Council shall enact a procedural land law, with community consultation and in accordance with the *Framework Agreement*, to govern the expropriation process including:

consultation.

Section 14.02 states that no land can be taken without fair compensation to the owner or occupant.

Section 14.04 states that once expropriated, the interest becomes community land.

Section 14.05 states that before any land is expropriated (taken), Council must enact a new procedural land law governing the



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- (a) notice of expropriation and the service and registration of the notice of expropriation;
- (b) a mechanism to resolve disputes over the amount of compensation payable by the First Nation;
- (c) the method of payment of compensation including the reasonable costs of a party;
- (d) procedures governing the taking of possession of expropriated interests and licences;
- (e) the registration of expropriation instruments; and
- (f) the inclusion of a summary of any expropriation in the Annual Land Management Report to citizens.

### Interests and licences that may not be expropriated

14.06 The following interests in First Nation land are not subject to expropriation:

- (a) in accordance with clause 17.6 of the *Framework Agreement*, an interest, right or licence that was obtained pursuant to section 35 of the *Indian Act* or any interest or land right that has been acquired by Canada or Ontario;
- (b) an interest, right or licence granted by Council after the date of coming into force of this Land Code which expressly provides, in the granting instrument, that the interest, right or licence shall be exempt from expropriation; and
- (c) an izhitwaawin site.

## PART 15: EXCHANGE OF LAND

### Protection of reserve land

15.01 Hiawatha First Nation land may not be sold, conveyed or otherwise alienated, except in an exchange of land made in accordance with this Part and the *Framework*

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process, which will be developed in consultation with HFN citizens.

Section 14.06 lists certain interests in land that may not be expropriated.

## PART 15: EXCHANGE OF LAND

The overriding purpose of the Land Code is to protect reserve land. However, there may be situations in which HFN may benefit from

### *Agreement.*

#### **Restrictions on exchange of land**

- 15.02 Hiawatha First Nation may exchange reserve land for other land only if
- (a) compensation for the reserve land includes land that Her Majesty has agreed will be set apart as a reserve or added to an existing reserve;
  - (b) the Minister has approved the form of the exchange; and
  - (c) the exchange of Hiawatha First Nation land is approved by a community approval conducted in accordance with PART 5.

#### **Terms and conditions**

- 15.03 An exchange of Hiawatha First Nation land may be made subject to terms and conditions.

#### **Other compensation**

- 15.04 In addition to the land referred to in subsection 15.02(a), the First Nation may receive other compensation, including land that will not become Hiawatha First Nation land.

#### **Transfer of title of land received in the exchange**

- 15.05 The title to the land referred to in subsection 15.02(a) shall be transferred to Canada and set apart by Canada as a reserve or added to an existing reserve as of the date of the land exchange or such later date as the First Nation may specify.

#### **Deemed amendment of the Land Code – alienated land**

- 15.06 As of the date of the land exchange, or such later date as the First Nation may specify, the description of Hiawatha First Nation Land in this Land Code will be deemed to be amended to delete the description of the Hiawatha First Nation Land that was alienated.

#### **Deemed amendment of the Land Code – reserve land**

- 15.07 As of the date of the setting aside of the land referred to in subsection 15.02(a) as a reserve or its addition to an existing reserve, the description of Hiawatha First Nation Land in this Land Code will be deemed to be

trading a parcel of reserve land for another parcel which will become reserve land – called a “land exchange.” This Part sets out the rules for land exchanges.

Lands can only be taken from an HFN reserve if (a) the First Nation will receive land in exchange; (b) the Crown agrees to make the new land part of the reserve; and (c) consent of the community is obtained.

Section 15.04 states that in addition to new reserve land, the land exchange may also involve other compensation – such as a financial settlement.

Section 15.06 states that when land is removed from HFN, the description of HFN land in this code is considered to automatically reflect that removal.

Section 15.07 states that when Canada adds the exchange parcel to an HFN reserve or creates a new reserve, it will automatically be subject to this Land Code.

amended to include that reserve land.

## PART 16: ENFORCEMENT

### Offences and prosecutions

16.01 A land law enacted with community consultation or community approval may:

- (a) create offences punishable on summary conviction and provide for the imposition of fines, imprisonment, restitution, community service, forfeiture of property, restraining orders and orders of banishment, and any other means for achieving compliance including minimum penalties; or
- (b) create procedures for the investigation, charging and prosecution of offences, including adopting or incorporating by reference the summary conviction procedures of Part XXVII of the *Criminal Code*, as amended from time to time.

### Appointment of enforcement officials

16.02 Justices of the peace, enforcement officers and prosecutors may be appointed by Canada or by Hiawatha First Nation Council for the purpose of enforcing this Land Code.

### Fees, fines and penalties payable to Hiawatha First Nation

16.03 All confiscated property and all fees, fines and penalties required to be paid on conviction for an offence established by a land law shall be paid and transferred to the Hiawatha First Nation.

### Deduction of outstanding amounts

16.04 Any fees, fines or penalties which remain unpaid in excess of thirty (30) days may be deducted from any other funds in the control of the Hiawatha First Nation and payable to the person liable for such fees, fines or penalties.

## PART 17: GENERAL

## PART 16: ENFORCEMENT

Land laws that have been enacted with community consultation or community approval may include offences carrying penalties such as fines, imprisonment, community service, forfeiture of property, and banishment orders, to ensure compliance.

Section 16.02 states that Council is allowed to appoint enforcement officers and prosecutors to enforce the Land Code.

Section 16.04 states that any fines a court orders to be paid become the property of the First Nation.

## PART 17: GENERAL

## TEXT OF THE HIAWATHA FIRST NATION LAND CODE

### Immunity of office holders, etc.

- 17.01 No criminal or civil proceedings lie against any office holder or any other person for anything done or omitted to be done in good faith during the course of the exercise or purported exercise of any power or the performance or purported performance of any duty or function pursuant to this Land Code or any land law.

### Amendment of Land Code

- 17.02 This Land Code may be amended by a community approval vote conducted in accordance with PART 5.

### Amendment of land laws and other instruments

- 17.03 A land law or other instrument created, enacted, adopted or passed by Council pursuant to its law-making authority under this Land Code may be amended, repealed or revoked:
- (a) In the manner provided in the land law or other instrument; or
  - (b) in the manner in which it was originally created, enacted or adopted.

### Minor revisions

- 17.04 Notwithstanding sections 17.02 and 17.03, this Land Code and any land law or other instrument created, enacted, adopted or passed by Council may be revised by a resolution of Council, adopted in an open session of Council on not less than 21 days' notice to eligible voters in accordance with section 5.12, where Council deems the revision to be minor in that it will not change the purpose, intent or substance of the Code, land law or instrument, but will correct an error or defect in wording or assist in the interpretation or implementation of the Land Code, land law or other instrument.

### In force date

- 17.05 This Land Code shall come in force on the earlier of:
- (a) the date on which Council by resolution declares all or any part of this Land Code in force by resolution published in accordance with section 6.02; or
  - (b) the date which is six months after the date

## PLAIN LANGUAGE GUIDE

Section 17.01 protects office holders from being sued or prosecuted for exercising any power under the Land Code, if the office holder performs their duties in good faith

Sections 17.02 to 17.04 specify how the Land Code and land laws enacted under it can be amended or revised:

Amendment of the Land Code: The Land Code can only be amended by a community approval vote, as set out under subsection 5.11(a).

Amendment of land laws: Land laws created under the Land Code can be amended in the same way as they were enacted, or they can specifically provide for a different method of amendment.

Minor revisions: Changes to the Land Code and to land laws that do not alter the purpose, intent or substance of the Land Code or any land law can be made by resolution of Council.

Section 17.05 sets how and when the Land Code will be effective.

of certification of this Land Code.

[end]