



Alderville First Nation Draft Land Code

Dated for Reference
November 30, 2022

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APR 20, 2023
[Signature]

VERIFIED
by B. Johnston
January 2, 2023

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ALDERVILLE FIRST NATION LAND CODE

Preamble

Whereas the Mississaugas of Alderville First Nation affirm our inherent right to our land, our water, our culture, our language and our traditions for our past, present and future generations for the benefit of Alderville First Nation;

And Whereas since time immemorial, we have always used and will continue to use the resources the Creator has so generously given us;

And Whereas our identity grows from our connection to the land and the water along with our respect for our culture, language and traditions. We commit to the conservation of our resources, to the best of our ability;

And Whereas the sustainability of Alderville First Nation will be promoted through the responsible development of our lands and commitment to long-term wealth creation for our Members;

And Whereas the Mississaugas of Alderville First Nation honour our Ancestors and those who have gone before us, as they continue to provide inspiration and guidance through the values that they have instilled in us. The strength of those that have gone before us has brought us to this important place and will connect us for generations to come - kina gdawendamin;

And Whereas the Mississaugas of Alderville First Nation will stand firm and defend our lands that the Creator gave to us to watch over;

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

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

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

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

And Whereas Alderville First Nation became a signatory on July 22, 2007 to the *Framework Agreement on First Nation Land Management*, as Alderville First Nation

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wishes to govern its land and resources under the *Alderville First Nation Land Code*, rather than having its land and resources managed on its behalf under the *Indian Act*;

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

And Whereas the *Framework Agreement on First Nation Land Management* is ratified by Alderville First Nation through community approval of the *Alderville First Nation Land Code*;

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

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PART 1 PRELIMINARY MATTERS

1. Definitions

Clarification

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

Definitions

- 1.2 The following definitions apply in this *Land Code*:

"Alderville First Nation" means Alderville First Nation and its Members;

"Canada" means His Majesty the King in Right of Canada;

"Common-Law Partnership" means:

- (a) two (2) individuals who are not married to each other and who have lived together for a period of not less than five (5) years in a conjugal relationship; and
- (b) two (2) individuals who are not married to each other and who live together in a conjugal relationship and who have a child of the relationship;

"Community Acquisition" means an Interest or Licence in Alderville First Nation Land acquired by Alderville First Nation in accordance with section 16;

"Council" means the Chief and Council of Alderville First Nation or any successor elected government of Alderville First Nation;

"Dispute Resolution Panel" means the panel established under section 39 for resolving certain disputes under this *Land Code*;

"Eligible Voter" means, for the purpose of voting in respect of Land matters under this *Land Code*, a Member who has attained eighteen (18) years of age on or before the day of the vote;

"Extended Family", in respect of an individual, means the individual's grandparent, uncle, aunt, first degree cousin, grandchild, and/or any other relation or relationship that Council may add by law;

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“First Nation Lands Register” means the register established pursuant to clause 51 of the *Framework Agreement* and regulated by the *First Nations Land Registry Regulations* or any successor land register that may be established to replace the First Nation Lands Register;

“Framework Agreement” means the *Framework Agreement on First Nation Land Management*, entered into between Canada and the signatory First Nations on February 12, 1996, and amended to include Alderville First Nation on July 22, 2007;

“Heritage Site” means an area managed or designated for the conservation of specific natural or cultural features, including an area of Land or water, or both Land and water, that contains one or more specific natural or cultural heritage features which is of unique value because of its inherent environmental sensitivity, representative or aesthetic qualities or cultural significance;

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

“Individual Agreement” means the Individual Agreement providing for the specifics of the transfer of administration made between Alderville First Nation and Canada in accordance with the *Framework Agreement*;

“Interest”, in relation to Alderville First Nation Land, means any interest, right or estate of any nature in or to that Land, including a certificate of possession, certificate of entitlement, lease, easement, right of way, servitude, or profit à prendre, but does not include title to that Land;

“Land” or **“Alderville First Nation Land”** means the reserve Land described in Appendix “A” of this *Land Code* and any other reserve Lands or Interests of Alderville First Nation that are made subject to this *Land Code* by Resolution or ministerial order;

“Land Exchange Agreement” means an agreement between Alderville First Nation and another party to exchange a parcel of Alderville First Nation Land for a parcel of land from another party in accordance with section 17 of this *Land Code* and section 14 of the *Framework Agreement*;

“Land Law” means a law, including, but not limited to, policies, Land Use Plans, regulations, by-laws, standards, restricted to Alderville First Nation Land, enacted in accordance with this *Land Code*;

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“Lands Committee” means the committee established under Part 6 of this *Land Code*;

“Land Use Plan” means, generally, a plan identifying areas for one or more of the following uses on Alderville First Nation Lands: housing, transportation, parks, economic development, infrastructure, social, cultural, and conservation;

“Licence” in relation to Alderville First Nation Land, means any right of use or occupation of that Land, other than an Interest in the Land, a grant of which must be made in writing;

“Member” means an individual whose name appears or is entitled to appear on the Alderville First Nation Band Membership List;

“Minister” means the Minister of Indigenous Services Canada, or any successor Ministry thereto;

“Natural Resources” means any renewable and non-renewable natural resources, such as water, timber, minerals, stone, sand, gravel, clay, soil and other substances;

“Person” means any individual, corporation, partnership, limited partnership, limited liability company, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof;

“Province” means His Majesty the King in Right of Ontario;

“Resolution” means a written resolution or authorizing document of Council adopted at a duly convened meeting Council;

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

2. Interpretation

Interpretation

2.1 In this *Land Code*:

- (a) the *Land Code* shall be interpreted in a fair, large and liberal manner;

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- (b) the word “shall” signifies an obligation that, unless this *Land Code* provides to the contrary, must be carried out as soon as possible after this *Land Code* comes into effect or the event that gives rise to the obligation;
- (c) unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;
- (d) titles and headings have been inserted in the *Land Code* for convenience of reference only, and are not interpretive aids;
- (e) unless otherwise clear from the context, whenever the singular is used, it will include the plural, and the use of the plural includes the singular;
- (f) all references to a time period of days means consecutive days and not business days;
- (g) where the time limited for the doing of an act expires or falls on a Saturday or Sunday, or an Alderville First Nation, federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday;
- (h) where the time limited for the doing of an act in the Alderville First Nation administration building falls on a day when the office is not open, the act may be done on the next day that the office is open;
- (i) where there is a reference to a number of days or a number of days between two events, in calculating that number of days, the days on which the events happen are excluded; and
- (j) the principles set out in the Preamble to this *Land Code* may be used to interpret this *Land Code*.

Culture and Traditions

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

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Language

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

Consistency with *Framework Agreement*

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

Paramountcy

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

Rights Not Affected

- 2.6 This *Land Code* does not change:
- (a) any Aboriginal, Treaty, inherent rights or other rights or freedoms that pertain now or in the future to Alderville First Nation or its Members; or
 - (b) the fiduciary relationship between Canada and Alderville First Nation and its Members; or
 - (c) the by-law powers of Council pursuant to the *Indian Act*.

Lands and Interests Affected

- 2.7 A reference to Land in this *Land Code* includes all the Interests and rights, as well as the resources that belong to that Land to the extent these are under the jurisdiction of Canada and are part of that Land, and includes:
- (a) the water, beds underlying water, riparian rights, and Natural Resources in and of that Land;
 - (b) all the Interests and Licences granted by Canada listed in the Individual Agreement; and
 - (c) all the Interests and Licences granted by Alderville First Nation after this *Land Code* comes into effect.

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Eligible Reserve Land

- 2.8 Only Land that is a reserve of Alderville First Nation is eligible to be governed by Alderville First Nation as Land under this *Land Code*.

3. Authority to Govern

Origin of Authority

- 3.1 Since time immemorial, we have always used and will continue to use the resources that the Creator has so generously given us. The traditional teachings of Alderville First Nation speak of the obligation of the Mississaugas of Alderville First Nation to care for and respect our Land, water, culture, language and traditions for our past, present and future generations for the benefit of Alderville First Nation. By enacting this *Land Code*, Alderville First Nation is honouring our Ancestors and those who have gone before us, and will stand firm and defend our lands that the Creator gave to us to watch over.

Flow of Authority

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

4. Purpose

Purpose

- 4.1 The purpose of this *Land Code* is to set out the principles, rules and administrative structures that apply to Alderville First Nation Land and by which Alderville First Nation and Council, as applicable, will exercise authority over that Land in accordance with the *Framework Agreement* and the decision-making processes set out herein.

5. Description of Alderville First Nation Land

Addition to Alderville First Nation Land

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

Application of *Land Code*

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

- (a) grant of Interest(s) or Licence(s) in relation to the lands, and
- (b) enact zoning, Land Use Plans or other Land Laws within the scope of the *Framework Agreement* in relation to the lands;

that will come into force only if and when the lands become Alderville First Nation Land.

Amendment to the Description of Land

5.3 A Resolution or ministerial order adding land to Alderville First Nation Land will be deemed to amend the description of Alderville First Nation Land as of the date set out therein.

Additional Lands

5.4 Council may hold a meeting of Members to discuss any proposed addition of lands to Alderville First Nation Land prior to the amendment of the description of Alderville First Nation Land subject to this *Land Code*.

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PART 2 FIRST NATION LEGISLATION

6. Law-Making Powers

Council May Make Land Laws

6.1 Council may, in accordance with this *Land Code*, make Land Laws respecting:

- (a) the development, conservation, protection, management, use and possession of Alderville First Nation Land;
- (b) Interests and Licences in relation to Alderville First Nation Land; and
- (c) any matter necessary or ancillary to the making of Land Laws in relation to Alderville First Nation Land.

Examples of Land Laws

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

- (a) regulation, control and prohibition of zoning, Land use, subdivision control and Land development;
- (b) the creation, regulation and prohibition of Interests and Licences in relation to Alderville First Nation Land;
- (c) environmental assessment and protection;
- (d) provision of local services in relation to Alderville First Nation Land and the imposition of fees or rents;
- (e) enforcement of Land Laws; and
- (f) provision of services for the resolution, outside the courts, of disputes in relation to Alderville First Nation Land.

Regulatory Power

6.3 For greater certainty, Council may exercise other regulatory powers to make regulations, standards, codes and policies in relation to such Land Laws.

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7. Law-Making Procedure

Introduction of Land Laws

7.1 A proposed Land Law may be introduced at a duly convened meeting of Council by:

- (a) the Chief;
- (b) a Councillor; or
- (c) the representative of the Lands Committee, or other body or authority composed of Members, that may be authorized by Council to do so.

Rationalization of Proposed Land Law

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

Lands Committee Review

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

Procedure upon Receipt

7.4 Upon receipt of a proposed Land Law, Council may:

- (a) table the proposed Land Law for further review or for enactment;
- (b) request that the Member proposing the Land Law provide further information or attend before a future meeting of Council to speak to the proposed Land Law;
- (c) undertake or direct the preparation of a draft Land Law concerning matters raised in the proposed Land Law, for consideration by Council; or
- (d) reject the proposed Land Law.

Tabling and Posting

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

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

Urgent Matters

- 7.6 Council may enact a Land Law without the preliminary steps ordinarily required, if Council is of the opinion that the Land Law is needed on an urgent basis to protect Alderville First Nation Land or the Members. A Land Law enacted under this section expires one hundred and twenty (120) days after its enactment unless re-enacted in accordance with the required preliminary steps. A Resolution enacting a Land Law under this section shall specify the in-force date and expiry date of the Land Law and shall provide for the giving of notice of the enactment to Members.

Approval

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

Certification

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

Taking Effect

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

8. Publication of Land Code and Land Laws

Publication

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

- (a) in the minutes of the Council meeting at which it was enacted;

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- (b) by posting a copy of the *Land Code* and Land Law, as soon as practicable after enactment, in a location within the administrative office of Alderville First Nation accessible to all Members;
- (c) by posting a copy of the *Land Code* and Land Law online; and
- (d) by any additional method as Council may consider appropriate.

Registry

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

Copies

- 8.3 Any Person may obtain a copy of the *Land Code*, a Land Law or Resolution approving the *Land Code* or Land law, as the case may be.

9. Enforcement of Land Laws

Enforceability

- 9.1 To enforce its *Land Code* and its Land Laws, Alderville First Nation shall have the power to:
- (a) establish offences that are punishable on summary conviction;
 - (b) provide for fines, imprisonment, restitution, community services, and alternate means for achieving compliance; and
 - (c) establish comprehensive enforcement procedures consistent with federal and provincial law, including inspections, searches, seizures and compulsory sampling, testing and the production of information.

Agreement for Recovery of Fines

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

Prosecuting Offences

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

- (a) retain its own prosecutor;
- (b) enter into an agreement with the Province to arrange for a provincial prosecutor; and
- (c) make Land Laws with respect to the appointment and authority of justices of the peace.

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PART 3 COMMUNITY MEETINGS AND APPROVALS

10. Participation of Members

Participation of Members

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

11. Participation of Eligible Voters

Participation of Eligible Voters

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

12. Meeting of Members and Community Approval Procedure

Notice of Meeting

12.1 Council shall give written notice of the meeting of Members and any matter requiring community approval at a meeting of Members, and include in the notice:

- (a) the date, time and place of the meeting;
- (b) a brief description of the matter to be discussed;
- (c) a brief description of any matter that requires community approval; and
- (d) other information and material that Council considers appropriate.

Manner of Notice

12.2 The notice shall be given to the Members before the meeting or vote, by:

- (a) posting the notice in public places;
- (b) providing the notice to Members and taking reasonable steps to locate and inform Members who reside on and off-reserve;
- (c) posting the notice online; and
- (d) additional methods Council considers appropriate.

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Permission of Council

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

No Quorum

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

Informed Decision

- 12.5 Council may schedule more than one meeting of Members as may be necessary to ensure that Members are well informed before making a decision on a proposed Land Law or Land-related matter.

13. Community Meetings of Members

Community Meetings

- 13.1 Council shall call a meeting of Members prior to enacting a Land Law for the following matters:
- (a) a community plan or subdivision plan;
 - (b) a creation, development, or protection of a Heritage Site ;
 - (c) environmental assessment and protection;
 - (d) the transfer and assignment of Interests and Licences in Alderville First Nation Land;
 - (e) family homes and matrimonial interests on Alderville First Nation Land;
 - (f) payments of fees or rents for Alderville First Nation Land;
 - (g) community acquisition; and
 - (h) any other matter that Council, by Resolution, declares to be subject to this section.

14. Community Approval

Community Approval

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14.1 Community approval shall be obtained for the following:

- (a) any Land Use Plan;
- (b) any new grant or disposition of an Interest or Licence in any Alderville First Nation Land exceeding a term of thirty five (35) years, inclusive of renewals and extensions;
- (c) Alderville First Nation grant or disposition of any non-renewable Natural Resources on any Alderville First Nation Land;
- (d) any removal or alteration of a Heritage Site;
- (e) any voluntary exchange of Alderville First Nation Land under section 17; and
- (f) any other matter, Land Law or class of law that Council, by Resolution, declares to be subject to this section.

Utility Permits Excepted

14.2 Community approval is not required for an easement, right of way or Licence granted by Council for utilities, including telecommunications, water, electricity, natural gas, sewer services and ancillary services.

Method of Voting

14.3 Community approval shall be obtained by one or more of the following methods:

- (a) establishing polling locations;
- (b) show of hands;
- (c) mail-in ballot;
- (d) alternative voting methods, such as electronic and telephone voting; or
- (e) any other method outlined in voting policies.

Approval by Majority

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

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Increased Threshold

14.5 Despite section 14.4, Council may, by Resolution prior to a vote, do either or both of the following:

- (a) establish a percentage of Eligible Voters who must participate in the vote in order for the result to be binding;
- (b) require that a percentage greater than fifty percent (50%) of participating Eligible Voters must approve the matter in order to obtain community approval.

15. Ratification Votes

Community Approval by Ratification vote

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

Exceptions

15.2 A community approval by ratification vote is not required for:

- (a) an amendment to the description of Land of this *Land Code*;
- (b) revisions to this *Land Code* made pursuant to section 45; and
- (c) an amendment to, or renewal of, the Individual Agreement.

Ratification Process

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

Approval by Majority

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

Increased Threshold

15.5 Despite section 15.4, Council may, by Resolution prior to a ratification vote, do either or both of the following:

- (a) establish a percentage of Eligible Voters who must participate in the vote in order for the result to be binding;

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- (b) require that a percentage greater than fifty percent (50%) of participating Eligible Voters must approve the matter in order to obtain community approval.

Policies

15.6 For greater certainty, Council may make Land Laws or policies respecting:

- (a) meetings of Members;
- (b) community consultations;
- (c) community approvals;
- (d) ratification votes; and
- (e) any other matter, that Council, by Resolution, declares to be subject to Part 3 of this *Land Code*.

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PART 4 PROTECTION OF LAND

16. Acquisition of Land by Alderville First Nation

Acquisition by Mutual Agreement

- 16.1 Alderville First Nation may acquire an Interest or Licence in Alderville First Nation Land, except an Interest held by Canada or the Province, provided that it has made a good faith effort to obtain, by mutual agreement, the Interest or Licence.

Acquirable Rights and Interests

- 16.2 An Interest or Licence in Alderville First Nation Land, or in any building or other structure on that Land, may only be acquired by Alderville First Nation in accordance with section 17, the *Framework Agreement* and any Land Law enacted for the purpose of establishing the rights and procedures for Community Acquisitions.

Community Purposes

- 16.3 A Community Acquisition shall only be made for necessary community works or other Alderville First Nation purposes including, but not limited to, a fire hall, sewage or water treatment facility, community center, public works, utilities, roads, schools, daycare facility, hospitals, health-care facility, retirement home, and Heritage Site.

Acquisition Land Law

- 16.4 Before proceeding to make any Community Acquisitions in accordance with this *Land Code* and the *Framework Agreement*, Council shall enact a Land Law respecting the rights and procedures for Community Acquisitions, including provisions respecting:

- (a) the taking of possession of the Interest or Licence;
- (b) transfer of the Interest or Licence;
- (c) notice of acquisition and service of the notice of acquisition;
- (d) entitlement to compensation;
- (e) determination of the amount of compensation; and
- (f) the method of payment of compensation.

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Public Report

- 16.5 Before Alderville First Nation acquires an Interest or Licence, it shall make a public report on the reasons justifying the Community Acquisition.

Member Notification

- 16.6 In the case of an acquisition of a Member's Interest or Licence in Alderville First Nation Land, the affected Member shall receive notification of the acquisition within a reasonable time prior to the release of the public report.

Compensation

- 16.7 Alderville First Nation shall, in accordance with its Land Laws and section 17 of the *Framework Agreement*:
- (a) serve reasonable notice of the Community Acquisition on each affected holder of the Interest or Licence to be acquired; and
 - (b) pay fair and reasonable compensation to the holders of the Interest or Licence being acquired.

Calculations

- 16.8 In accordance with section 17.4 of the *Framework Agreement*, Alderville First Nation shall calculate the total value of the compensation under this section based on the heads of the compensation set out in the *Expropriation Act* (Canada).

Market Value

- 16.9 The "market value" of an acquired Interest or Licence is the amount that the Interest or Licence might be expected to realize if sold in the open market by a willing seller to a willing buyer.

Neutral Evaluation to Resolve Disputes

- 16.10 The resolution of disputes concerning the right of Alderville First Nation to acquire Interests and Licences shall be determined by neutral evaluation, in the same manner as provided in Part IX of the *Framework Agreement*, and the sixty (60) day period referred to in the *Framework Agreement* shall be applied, as appropriate in the circumstance, by the neutral evaluator.

Arbitration to Resolve Disputes

- 16.11 The resolution of the following disputes shall be determined by arbitration, in the same manner as provided in Part IX of the *Framework Agreement*:

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- (a) disputes concerning the right of a holder of an acquired Interest or Licence to compensation; and
- (b) disputes concerning the amount of the compensation.

17. Voluntary Exchange of Alderville First Nation Land

Power to Exchange Land

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

Land to be Received

- 17.2 No land exchange may occur unless the land to be received by Alderville First Nation in the exchange meets the following conditions:
- (a) it shall be equal to or greater than the area of the Alderville First Nation Land to be exchanged;
 - (b) it shall be at least comparable to the appraised value of the Alderville First Nation Land; and
 - (c) it shall become a reserve and Alderville First Nation Land subject to this *Land Code*.

Additional Land

- 17.3 Alderville First Nation may negotiate to receive other compensation, such as money or other additional parcels of land, in addition to the parcel which is intended to become a reserve. Such other parcels of land may be held by Alderville First Nation in fee simple or some other manner.

Land Exchange Agreements

- 17.4 Every land exchange must be effected by way of a Land Exchange Agreement.

Process of Land Exchange

- 17.5 Every Land Exchange Agreement shall provide that:
- (a) the land exchange shall be conditional upon Canada providing a statement to Alderville First Nation that Canada:

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- i. consents to set apart as a reserve the land to be received in exchange, as of the date of the land exchange or such later date as Council may specify; and
 - ii. consents to the manner and form of the exchange as set out in the Land Exchange Agreement;
- (b) the land exchange shall be conditional upon obtaining community approval in accordance with Part 3 of this *Land Code*;
- (c) the other party to the exchange must transfer to Canada the title to the land which is to be set apart as a reserve;
- (d) Council must pass a Resolution authorizing Canada to transfer title to the Alderville First Nation Land being exchanged, in accordance with the Land Exchange Agreement;
- (e) a copy of the instruments transferring title to the relevant parcels of land must be registered in the First Nation Lands Register; and
- (f) the land to be set apart as a reserve has been subject to an environmental audit, and clearance or remediation as necessary, or that Council is satisfied that adequate provisions have been made for such clearance or remediation at no cost to Alderville First Nation, and with full indemnification to Alderville First Nation.

Negotiators

17.6 The Person with authority to negotiate a Land Exchange Agreement on behalf of Alderville First Nation shall be designated by Resolution.

Community Notice and Vote

17.7 Once a Land Exchange Agreement is concluded and prior to holding a community vote in accordance with Part 3, Council shall provide the following information to Eligible Voters:

- (a) a description of the Alderville First Nation Land to be exchanged;

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- (b) a description of the land to be received in the exchange;
- (c) a description of any other compensation to be exchanged;
- (d) a report of a certified land appraiser setting out that the conditions for the land to be received in the exchange have been met;
- (e) a copy or summary of the Land Exchange Agreement; and
- (f) a copy of Canada's consent obtained in accordance with section 17.5

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PART 5 ACCOUNTABILITY

18. Conflict of Interest or Appearance of Conflict of Interest

Application of Rules

18.1 The conflict of interest rules in this *Land Code* apply to the following Persons:

- (a) each member of Council who is dealing with any matter before Council that is related to Alderville First Nation Land;
- (b) each Person who is an employee of Alderville First Nation dealing with any matter that is related to Alderville First Nation Land;
- (c) each member of the Dispute Resolution Panel; and
- (d) each Person who is a member of a board, committee or other body of Alderville First Nation dealing with any matter that is related to Alderville First Nation Land.

Duty to Report and Abstain

18.2 If there is any actual or apparent financial, familial or personal conflict of interest in the matter being dealt with, the Person:

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

Apparent Conflict of Interest

18.3 A Person has an apparent conflict of interest if there is a reasonable perception, which a reasonably well informed Person could properly have, that the Person's ability to deliberate or decide on the matter has been affected by his or her private interest or the private interest of an Immediate Relative.

Inability to Act

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

Meeting of Members

- 18.5 If Council is unable to vote on a matter due to a conflict of interest, Council may refer a matter, a proposed Land Law or Resolution to a community approval in accordance with Part 3.

Specific Conflict Situations

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

Disputes

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

Other Laws

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

19. Financial Management

Application

- 19.1 This section applies only to financial matters relating to Alderville First Nation Land and Natural Resources.

Financial Policies

- 19.2 Council may, in accordance with this *Land Code*, develop, adapt or adopt financial management laws or policies, including:

- (a) regulating the receipt, management and expenditure of moneys, including transfer payments, all capital and revenue moneys received from Canada, all Land revenue, and moneys received from a grant or disposition of any Interest or Licence in relation to Alderville First Nation Land and Natural Resources;

- (b) managing financial records and accounts;

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- (c) preparing financial statements and audits;
- (d) preparing and implementing budgets and annual presentation of budgets;
- (e) determining the general investment strategy;
- (f) contract notes, loans and other indebtedness;
- (g) establishing fees, fines, charges and levies; and
- (h) establishing and maintaining a recordkeeping system that ensures confidentiality, security of records and document retention.

Administrative Structure

19.3 Council shall establish the administrative structure:

- (a) to implement all financial policies and procedures;
- (b) to oversee the day to day operational responsibilities for managing moneys related to Alderville First Nation Land and Natural Resources;
- (c) to ensure the accuracy of the accounting records;
- (d) to reconcile, review and approve bank statements;
- (e) to present the annual budgets to Members;
- (f) to present annually an audit of the financial statements to the Members; and
- (g) to prepare the annual report to Members.

20. Annual Report

Publication

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

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Contents

20.2 The annual report shall include:

- (a) an annual review of Alderville First Nation Land and Natural Resources management;
- (b) annual budget;
- (c) a copy and explanation of the audit as it applies to Alderville First Nation Land and Natural Resources; and
- (d) any other matter as determined by Council or Lands Committee.

21. Access to Information

Access

21.1 Any Person may, during normal business hours at the main administrative office of the Alderville First Nation, and have reasonable online access to:

- (a) the register of Land Laws;
- (b) the auditor's report; and
- (c) the annual report on Land and Natural Resources.

Copies

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

Access to Records

21.3 Any Person authorized by Council may inspect the financial records of Alderville First Nation related to Alderville First Nation Land.

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PART 6 LAND AND NATURAL RESOURCES ADMINISTRATION

22. Land Staff

Administration

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

23. Lands Committee

Lands Committee Established

- 23.1 The Lands Committee is hereby established for the following purposes:

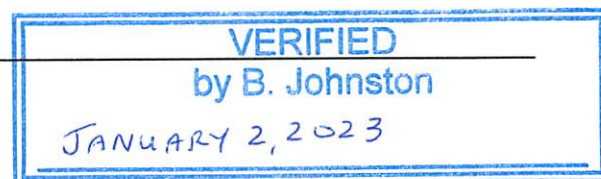
- (a) assist Council with the development of the Land administration system;
- (b) advise Council and its staff on matters respecting Alderville First Nation Land;
- (c) recommend Land Laws, Resolutions, policies and practices respecting Alderville First Nation Land to Council;
- (d) consult with Members and non-Members on Alderville First Nation Land issues, and to make recommendations on the resolution of those issues to Council;
- (e) oversee community meetings of Members, community approvals and ratification votes; and
- (f) perform such other duties as may be delegated or assigned by Resolution or Land Law under this *Land Code*.

Process to Implement Land Laws

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

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Internal Procedures

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

24. Implementation of the Lands Committee

First Lands Committee

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

Successors

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

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PART 7 INTERESTS AND LICENCES IN LAND

25. Revenue from Land and Natural Resources

Determination of Fees and Rent

- 25.1 The Lands Committee shall, subject to the approval of Council, establish the process and recommend any Land Laws, rules and policies for determining:
- (a) fees and rent for Interests and Licences in Alderville First Nation Land;
 - (b) fees for services provided in relation to any Alderville First Nation Land; and
 - (c) fees and royalties to be paid for the use of Natural Resources from Alderville First Nation Land.

26. Registration of Interests and Licences

Registration of Consent or Approval

- 26.1 An instrument granting an Interest or Licence in Alderville First Nation Land that requires the consent of Council, or community approval, shall include a form of consent indicating that the applicable consent or approval has been obtained.

Grants to Non-Members

- 26.2 A transfer or other disposition of all or any part of an Interest or Licence in Alderville First Nation Land to a Person who is not a Member shall not be effective unless and until consent has been provided by Council.

Recipient's Duty to Deposit

- 26.3 Any Person who obtains an Interest or Licence in Alderville First Nation Land shall deposit in the First Nation Lands Register a copy of the granting instrument.

Counsel's Duty to Deposit

- 26.4 Council shall cause to be deposited a copy of the following instruments in the First Nation Lands Register:

- (a) every Land Law; and
- (b) this *Land Code* and any amendment to this *Land Code*.

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Enforcement of Interest and Licences

- 26.5 An Interest or Licence in Alderville First Nation Land created or granted after this *Land Code* takes effect is not enforceable unless it is registered in the First Nation Lands Register.

27. Limits on Interests and Licences

All Dispositions in Writing

- 27.1 An Interest or Licence in Alderville First Nation Land may only be created, granted, disposed of, assigned or transferred by a written document made in accordance with this *Land Code* and any relevant Land Law.

Standards

- 27.2 Council may establish mandatory standards, criteria and forms for Interests and Licences in Alderville First Nation Land.

Improper Transactions Void

- 27.3 A deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which Alderville First Nation, a Member or any other Person purports to grant, dispose of, transfer or assign an Interest or Licence in Alderville First Nation Land after the date this *Land Code* takes effect is void if it contravenes this *Land Code*.

28. Existing Interests

Continuation of Existing Interests and Licences

- 28.1 Any Interest or Licence in Alderville First Nation Land that was valid in accordance with the *Indian Act* and in existence when this *Land Code* takes effect, including a certificate of possession, will, subject to this *Land Code*, continue in force in accordance with its terms and conditions. For greater certainty, any Interests or Licences not validly created under the *Indian Act* prior to this *Land Code* taking effect must be registered in accordance with Part 7 of this *Land Code*.

Voluntary Amendment or Replacement

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

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Replacing the Role of the Minister

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

Unregistered Interests

- 28.4 A policy shall be established as soon as practical after the coming into force of the *Land Code* to accommodate unregistered Interests.

29. New Interests and Licences

Authority to Make Dispositions

- 29.1 Council may, on behalf of Alderville First Nation, grant:
- (a) Interests and Licences in Alderville First Nation Land, including certificates of possession, Member allocations, leases, permits, easements and rights-of-way; and
 - (b) Licences to use Natural Resources from Alderville First Nation Land.

Conditional Grant

- 29.2 The grant of an Interest or Licence may be made subject to the satisfaction of written conditions.

Role of the Lands Committee

- 29.3 The Lands Committee shall advise Council on the granting of Interests or Licences and may be authorized to act as a delegate of Council under this section.

30. Allocation of Land to Members

Policies and Procedures

- 30.1 Subject to the provisions of this *Land Code*, Council in consultation with the Lands Committee shall establish Land Laws, policies and procedures for the allocation of Land to Members.

Allocation

- 30.2 Council may, in accordance with this *Land Code*:

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- (a) allocate Land to Members; or
- (b) issue a certificate for an Interest to a Member for Land allocated to that Member.

Restrictions on Non-Members

- 30.3 A Person who is not a Member is not entitled to be allocated Land or to hold a permanent Licence in Alderville First Nation Land.

31. Transfer and Assignment of Interests

Transfer of Member Interest

- 31.1 A Member may transfer or assign an Interest or Licence in Alderville First Nation Land to another Member without community approval or the consent of Council and shall follow all applicable registration requirements under section 26 to be valid.

Consent of Council

- 31.2 There shall be no transfer or assignment of an Interest in Alderville First Nation Land without the written consent of Council, except for:
- (a) transfers between Members;
 - (b) transfers that occur by operation of law, including transfers of estate by testamentary disposition; and
 - (c) transfers in accordance with any family homes and matrimonial interests Land Laws.

32. Limits on Mortgages and Seizures

Protections

- 32.1 In accordance with the *Framework Agreement*, the following provisions of the *Indian Act*, as amended from time to time, continue to apply to Alderville First Nation Land:
- (a) section 29
Reserve lands are not subject to seizure under legal process;
 - (b) section 87

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(1) Notwithstanding any other Act of Parliament or any Act of the legislature of a province, but subject to section 83 and section 5 of the First Nations Fiscal Management Act, the following property is exempt from taxation:

- (a) the interest of an Indian or a band in reserve lands or surrendered lands; and*
- (b) the personal property of an Indian or a band situated on a reserve.*

(2) No Indian or band is subject to taxation in respect of the ownership, occupation, possession or use of any property mentioned in paragraph (1)(a) or (b) or is otherwise subject to taxation in respect of any such property.

(3) No succession duty, inheritance tax or estate duty is payable on the death of any Indian in respect of any property mentioned in paragraphs (1)(a) or (b) or the succession thereto if the property passes to an Indian, nor shall any such property be taken into account in determining the duty payable under the Dominion Succession Duty Act, chapter 89 of the Revised Statutes of Canada, 1952, or the tax payable under the Estate Tax Act, chapter E-9 of the Revised Statutes of Canada, 1970, on or in respect of other property passing to an Indian;

(c) Sub-section 89(1)

Subject to this Act, the real and personal property of an Indian or a band situated on a reserve is not subject to charge, pledge, mortgage, attachment, levy, seizure, distress or execution in favour or at the instance of any person other than an Indian or a band; and

(d) Sub-section 89(2)

A person who sells to a band or a member of a band a chattel under an agreement whereby the right of property or right of possession thereto remains wholly or in part in the seller may exercise his rights under the agreement notwithstanding that the chattel is situated on a reserve.

Consent to Mortgage Leasehold Interests

32.2 A leasehold Interest may be subject to charge or mortgage in favour of a non-Member but only with the written consent of Council, which shall not to be unreasonably withheld.

Consent of Council

32.3 In granting its consent, Council may include the following requirements:

- (a)** notice to Council be provided in the event of default; and
- (b)** the right for Council, on behalf of Alderville First Nation, to redeem the charge or mortgage from the charger or mortgagor in possession and shall thereupon acquire all the rights and

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Interests of the charger or mortgagor and of the lessee or Member for all purposes after the date of the redemption;

Mortgage of Allocated Land

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

Time Limit

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

Power of Redemption

32.6 Subject to prior redemption by the lessee or Member, Council, on behalf of Alderville First Nation, may redeem the charge or mortgage from the charger or mortgagor in possession and shall thereupon acquire all the rights and Interests of the charger or mortgagor and of the lessee or Member for all purposes after the date of the redemption.

Waiver of Redemption

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

33 Residency and Access Rights

Right of Residence

33.1 The following Persons have a right to reside on Alderville First Nation Land:

- (a) Members, their Spouses and children;
- (b) any invitee of an individual referred to in clause (a);
- (c) lessees and permittees, in accordance with the provisions of the granting instrument; and
- (d) a Person authorized in writing by Council, the Lands Committee or by a Land Law.

Right of Access

33.2 The following Persons have a right of access to Alderville First Nation Land:

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- (a) Members, their Spouses and children;
- (b) any invitee of an individual referred to in clause (a);
- (c) lessees and their invitees;
- (d) a Person granted a right of access under a Licence; or
- (e) a Person authorized in writing by Council or Lands Committee or by a Land Law.

Public Access

33.3 Any individual may have access to Alderville First Nation 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 has been enacted barring that individual from having access to Alderville First Nation Land.

Use of Roads

33.4 Any Person may have the right of access to Alderville First Nation public roads, subject to this *Land Code* and Land Laws.

Trespass

33.5 Any Person, who resides on, enters or remains on Alderville First Nation Land, other than in accordance with a residence or access right under section 33 this *Land Code*, is guilty of an offence.

Civil Remedies

33.6 All civil remedies for trespass are preserved.

34 Transfers on Death

Indian Act Application

34.1 Subject to any Land Laws on family homes and matrimonial interests, until Alderville First Nation exercises jurisdiction in relation to wills and estates, the provision of the *Indian Act* dealing with wills and estates shall continue to apply with respect to Interests in Alderville First Nation Land.

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Registration of Transfer

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

Disposition of Interest

34.3 If no provision has been made by the deceased Member of the disposition of the Interest to another Member, the following rules apply:

- (a) the Minister or his or her delegate may make application to Council requesting that an instrument evidencing lawful possession or occupation of Alderville First Nation Land be issued; or
- (b) a certificate for an Interest or other instrument may be issued in accordance with procedures established by Council, or application of the Minister or his or her delegate, if the beneficiary or purchaser is a Member of Alderville First Nation.

35 Alderville First Nation Matrimonial Real Property Law

Development of Rules and Procedures

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

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

Enactment of Rules and Procedures

35.2 Alderville First Nation enacted a Matrimonial Real Property Law on September 25, 2017. The rules and procedures contained in the Alderville First Nation Matrimonial Real Property Law were approved by a vote of

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Eligible Voters and by Resolution. -The current Matrimonial Real Property Law applies until Alderville First Nation enacts a similar Land Law under the Land Code.

Additional Provisions

35.3 Further updates to the Alderville First Nation Matrimonial Real Property Law may include:

- (a) provisions for administering those laws;
- (b) despite subsection 89(1) of the *Indian Act*, provisions for enforcing, on Alderville First Nation Land, an order of a court or a decision made or an agreement reached under those laws; and
- (c) procedures for amendment and repeal of those laws.

Notice of Land Laws

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

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PART 8 DISPUTE RESOLUTION

36 Purpose

Intent

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

Purpose

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

37 Disputes

Dispute Prevention

- 37.1 The parties shall use best efforts to prevent disputes from arising and shall consider the use of dispute resolution processes at the earliest possible stage of any conflict.

Disputes Prior to Land Code

- 37.2 Disputes that arose before the *Land Code* takes effect may also be referred to this part.

Decision of Council or Lands Committee

- 37.3 If a Member, or a non-Member with an Interest or Licence in Alderville First Nation Land, has a dispute with respect to a decision of Council or the Lands Committee, the Person shall first attempt to resolve that dispute with Council or the Lands Committee, before referring the dispute to the Dispute Resolution Panel.

Settlement

- 37.4 Nothing in this part shall be construed to limit the ability of any Person to reach agreement to settle a dispute without recourse to this part.

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Settlement Agreement

- 37.5 Any settlement reached through dispute resolution under Part 8 shall not be legally binding until it has been reduced to writing and properly executed by, or on behalf of, the parties.

Contractual Agreement

- 37.6 A contractual agreement made under this *Land Code* may establish that the dispute resolution outlined in this *Land Code* and its Land Laws may be mandatory or may to some degree prescribe for alternate dispute resolution processes if there is consensual agreement by the parties involved in that agreement. The dispute resolution clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract.

Variation of Rules

- 37.7 The parties to a dispute to which these rules apply may to some degree, modify, vary or amend these rules by consensual agreement in writing, and notify the Dispute Resolution Panel in writing.

Civil Remedies

- 37.8 For greater certainty, nothing in this part shall be construed to prevent a party to a dispute from, at any stage of dispute resolution, applying to have the dispute resolved in a court of competent jurisdiction.

Challenge to Validity of Law

- 37.9 For greater certainty, nothing in this part shall be construed to prevent a party to a dispute from challenging the validity of a Land Law, but such a challenge may be heard only in a court of competent jurisdiction.

38 Processes

Staged Processes

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

- (a) facilitated discussions;
- (b) negotiation;
- (c) mediation; and

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- (d) final arbitration by the Dispute Resolution Panel.

Procedure to File a Dispute

38.2 A Person who wishes to resolve a dispute with another Person or with Alderville First Nation in relation to the use or occupation of Alderville First Nation Land may file a written notice of dispute setting out:

- (a) the nature of the dispute;
- (b) a statement outlining the facts and supporting arguments of the dispute claim; and
- (c) the relief that is sought.

Termination of Processes

38.3 Facilitated discussions, negotiations and mediations may be suspended upon any of the following occurrences:

- (a) the parties reach an agreement;
- (b) one of the parties refuses to continue with facilitated discussions, negotiations or mediation;
- (c) the mediator assesses that nothing meaningful is to be gained in continuing the process; or
- (d) upon the request of both parties.

Notice of Termination

38.4 A notice of termination is required when further facilitated discussions, negotiations or mediation shall not resolve the dispute. The dispute may progress to the next stage of the dispute resolution process or to final arbitration.

Dispute Resolution Not Available

38.5 Dispute resolution is not available for disputes in relation to:

- (a) administration or distribution of an estate;
- (b) decisions relating to housing allocations;

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- (c) decisions of Council to grant or refuse to grant an Interest or Licence in Alderville First Nation Land to a non-Member;
- (d) decisions on Community Acquisitions under this *Land Code*: and
- (e) prosecution or conviction of an offence under a Land Law or under criminal law.

Duty of Fairness

38.6 All Persons involved in a dispute under this part shall be:

- (a) treated fairly;
- (b) given a full opportunity to present their case; and
- (c) given reasons for a decision made under this part.

Rules and Procedures

38.7 Council may prescribe such laws, Resolutions, rules, policies, procedures, forms and reasonable fees not inconsistent with this *Land Code*, as may be necessary to give effect to this part including:

- (a) facilitated discussions, negotiations, mediations and arbitrations;
- (b) terms of office for panelists;
- (c) remuneration of facilitators, mediators, arbitrators, panelists, expert advisors, professionals or other Persons retained to assist in the resolution of disputes;
- (d) code of conduct for facilitators, mediators, arbitrators, panelists, expert advisors, professionals or other Persons retained to assist in the resolution of disputes;
- (e) disclosure and confidentiality;
- (f) imposition of time limitations for submitting a notice of dispute and referring a matter or dispute to the Dispute Resolution Panel;
- (g) implementing recommendations of the Dispute Resolution Panel; and
- (h) any other matter necessary to give effect to this part.

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Waiver of Liability

- 38.8 By participating in this dispute resolution process, the parties agree that the facilitators, mediators, arbitrators and panelists shall not be liable to the parties for any act or omission in connection with the services provided by them in, or in relation to, the dispute resolution processes, unless the act or omission is fraudulent or involves willful misconduct.

39 Dispute Resolution Panel Established

Panel Established

- 39.1 The Dispute Resolution Panel is hereby established with jurisdiction to resolve disputes in relation to Alderville First Nation Land.

Appointment

- 39.2 The Dispute Resolution Panel shall be composed of a roster of no more than of twenty (20) panelists.

Ineligibility

- 39.3 Notwithstanding the general rules of conflict of interest in the *Land Code*, no Council member, or employee of Alderville First Nation or Person already serving on another board, body, or committee related to Alderville First Nation Land shall sit on the Dispute Resolution Panel.

Representation

- 39.4 Council shall appoint the panelists, and shall ensure that, where possible, the panelists represent the various elements of the community.

Establishment of Rules

- 39.5 The Dispute Resolution Panel may establish rules for the procedure at its hearings, including rules of conduct for the parties to a dispute, and generally for the conduct of its affairs.

40 Impartiality of the Dispute Resolution Panel

Duty to Act Impartially

- 40.1 The Dispute Resolution Panel shall act impartially and without bias or favour to any party in a dispute.

Offence

- 40.2 It is an offence for a Person to act, or attempt to act, in a way to improperly influence a decision of the Dispute Resolution Panel.

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Rejection of Application

- 40.3 In addition to any other sanction, the Dispute Resolution Panel may reject an application without hearing it if the Dispute Resolution Panel believes that the applicant acted, or attempted to act, in a way to improperly influence its decision.

41 Arbitration by the Dispute Resolution Panel

Disputes

- 41.1 Applications for resolution by the Dispute Resolution Panel shall be submitted to the Lands Department.

Panel of Chosen from Roster

- 41.2 Disputes referred to the Dispute Resolution Panel shall be heard by three (3) panelists chosen as follows:

- (a) one (1) panelist is to be chosen by each of the two (2) parties to the dispute;
- (b) one (1) panelist, who is to be the chair, shall be chosen by the rest of the Dispute Resolution Panel; and
- (c) in the case of situations not adequately covered by clause (a) or (b), all three (3) panelists shall be chosen by the Dispute Resolution Panel as a whole.

Dispute Resolution Not Available

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

42 Powers of the Dispute Resolution Panel

Power of the Dispute Resolution Panel

- 42.1 The Dispute Resolution Panel may, after hearing a dispute:

- (a) confirm or reverse the decision in dispute, in whole or in part;
- (b) substitute its own decision for the decision in dispute;
- (c) direct that an action be taken or ceased;

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- (d) refer the matter or dispute back for a new decision; or
- (e) make an order to give effect to its decision, including any necessary order for the survey of an Interest in Alderville First Nation Land, the registration of an Interest in Alderville First Nation Land, and the allocation of the costs of any incidental measures to be taken to give effect to such an order.

Recommendations by Panel

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

- (a) the suspension of any Land Law or Council decision for such period as is necessary for Council to reconsider, amend or repeal such Land Law or decision, provided that any amendment or repeal of a Land Law is made in a manner consistent with this *Land Code*; or
- (b) any other recommendation that it deems reasonable and necessary in the circumstances.

Interim Decisions

42.3 The Dispute Resolution Panel may, in relation to a dispute over which it has jurisdiction under this part, make any interim order it considers to be necessary as a matter of urgency to preserve the rights of the parties to the dispute or to preserve or protect an Interest or Licence in Alderville First Nation Land.

Professional Services

42.4 The Dispute Resolution 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

42.5 Decisions of the Dispute Resolution Panel shall be in writing, signed by the individual chairing the Dispute Resolution Panel or by an officer designated by the Dispute Resolution Panel to do so. Where requested, the written decision shall be provided to a party to the proceeding within fourteen (14) days after the date of the decision.

Appeal of Decision

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

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PART 9 OTHER MATTERS

43 Liability

Liability Coverage Laws

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

Liability Limitations

- 43.2 The limits on liability, defences and immunities in a Land Law shall be no greater than those that would apply to a Person or entity performing a similar duty under the laws of the Province.

Extent of Coverage

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

44 Offences

Application of the *Criminal Code*

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

Fines & Imprisonment

- 44.2 Unless some other procedure is provided for by a Land Law, any Person who commits an offence under this *Land Code* or under a Land Law is liable to a fine not to exceed five thousand (\$5,000) and to a term of imprisonment not to exceed six (6) months or to both fine and imprisonment, provided however, that offences related to Alderville First Nation environmental protection laws may carry penalties consistent with similar environmental protection laws in force in Canada.

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45 Revisions to *Land Code*

Revisions

45.1 A ratification vote is not required for revisions made to this *Land Code* that do not change the substance of this *Land Code*. Council may, from time to time, arrange and revise this *Land Code*. Revisions include:

- (a) an amendment of the description of Alderville First Nation Land subject to this *Land Code*;
- (b) a reference in this *Land Code* to a clause in another act or document that was amended and resulted in clause renumbering;
- (c) a reference in this *Land Code* to another act or parts thereof that have expired, have been repealed or suspended;
- (d) changes in this *Land Code* as are required to reconcile seeming inconsistencies with another act;
- (e) minor improvements in the language as may be required to bring out more clearly the intention of Alderville First Nation without changing the substance of this *Land Code*; and
- (f) correct editing, grammatical or typographical errors.

46 Commencement

Preconditions

46.1 This *Land Code* shall take effect if the community approves this *Land Code* and the Individual Agreement with Canada and this *Land Code* has been certified by the verifier pursuant to the *Framework Agreement*.

Commencement Date

46.2 This *Land Code* shall take effect on the first day of the month following the certification of this *Land Code* by the verifier after a successful ratification vote.

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APPENDIX "A"

Description of the Alderville First Nation Land

Alderville First Nation Reserve

Land Description of the extent of reserve lands that will be subject to the land code of the Alderville First Nation under the First Nations Land Management Act.

All those lands within the Geographic Township of Alnwick, County of Northumberland, Province of Ontario, Canada, more particularly described as:

Alderville First Nation Reserve, as shown on a Land Management Transfer Plan recorded in the Canada Lands Surveys Records as number 111639 CLSR ON, containing 1303 hectares (3219 acres) more or less.

Subject to a reservation for free access to the shore for all vessels, boats, and persons, as in Letters Patent dated June 23, 1851 (Lot 12, Concession 4).

Sugar Island Indian Reserve No. 37A

Land Description of the extent of reserve lands that will be subject to the land code of the Alderville First Nation under the First Nations Land Management Act.

All those lands within the Geographic Township of Otonabee, County of Peterborough, Province of Ontario, Canada, more particularly described as:

The whole of Sugar Island as shown on Plan 99230 in the Canada Lands Survey Records (CLSR), containing 44.7 hectares (110.5 acres) more or less.

Subject to a reservation for free access to the shore for all vessels, boats, and persons, as in Letters Patent dated June 8, 1859.

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