

Pottawatomini of Moose Deer Point First Nation Land Code



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POTTAWATOMI OF MOOSE DEER POINT FIRST NATION LAND CODE

PREAMBLE

Whereas the Pottawatomi Anishnabek of Pottawatomi of Moose Deer Point First Nation have a profound relationship with the Land that is rooted in respect for the spiritual value of the Earth, a sacred trust to act as stewards of the Land and resources that the Creator has provided, and a deep desire to preserve their relationship with the Land;

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

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 Pottawatomi of Moose Deer Point First Nation became a signatory on March 31, 2003 to the *Framework Agreement on First Nation Land Management*, as Pottawatomi of Moose Deer Point First Nation wishes to govern its Land and resources under the *Pottawatomi of Moose Deer Point 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 Pottawatomi of Moose Deer Point First Nation will continue;

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

**NOW THEREFORE, THIS LAND CODE IS HEREBY ENACTED AS THE
FUNDAMENTAL LAND LAW OF POTTAWATOMI OF MOOSE DEER POINT FIRST
NATION.**

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*:

“Canada” means Her Majesty the Queen in Right of Canada;

“Community Land” means any Pottawatomi of Moose Deer Point First Nation Land in which all Members have a common interest;

“Council” means the Chief and Council of Pottawatomi of Moose Deer Point First Nation or any successor elected government of Pottawatomi of Moose Deer Point First Nation;

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

“First Nation Lands Register” means the register established pursuant to clause 51 of the *Framework Agreement* and regulated by the *First Nations Land Registry Regulations*;

“*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 Pottawatomi of Moose Deer Point First Nation on March 31, 2003;

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

“Individual Agreement” means the Individual Agreement providing for the specifics of the transfer of administration made between Pottawatomi of Moose Deer Point First Nation and Canada in accordance with clause 6.1 of the *Framework Agreement*;

“Interest”, in relation to 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 “Pottawatomi of Moose Deer Point First Nation Land” means any reserve Land that is subject to this *Land Code*;

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

“Licence” in relation to Pottawatomi of Moose Deer Point First Nation Land, means any right of use or occupation of that Land, other than an Interest in the Land;

“Member” means a person whose name appears or is entitled to appear on the Pottawatomi of Moose Deer Point First Nation Band Membership List;

“Pottawatomi of Moose Deer Point First Nation” means Pottawatomi of Moose Deer Point First Nation and its Members;

“Panel” means the Dispute Resolution Panel established under Part 8 of this Land Code;

“Resolution” means a duly signed and First Nation Council Resolution; and

“Spouse” means a person 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;
- (b) the word “shall” signifies an obligation that, unless this *Land Code* provides to the contrary, must be carried out as soon as practicable after this *Land Code* comes into effect or the event that gives rise to the obligation;
- (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 it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine;

- (f) 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;
- (g) all references to a time period of days means consecutive days and not business days;
- (h) where the time limited for the doing of an act expires or falls on a Saturday or Sunday, or a First Nation, federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday;
- (i) where the time limited for the doing of an act in the Pottawatomi of Moose Deer Point 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;
- (j) 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
- (k) 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 Pottawatomi of Moose Deer Point First Nation, unless otherwise provided.

Language

- 2.3 The language of Pottawatomi of Moose Deer Point First Nation may be used to clarify the meaning of any provision in this *Land Code*, if the meaning of that provision is not otherwise clear in English.

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 Pottawatomi of Moose Deer Point First Nation, including a by-law enacted under section 81 of the *Indian Act*, this *Land Code* prevails 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 Pottawatomi of Moose Deer Point First Nation or its Members;

- (b) the fiduciary relationship between Canada and Pottawatomi of Moose Deer Point 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* means 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 renewable and non-renewable natural resources in and of that Land, to the extent that these are under the jurisdiction of Canada;
 - (b) all the Interests and Licences granted by Canada listed in the Individual Agreement; and
 - (c) all the Interests and Licences granted by Pottawatomi of Moose Deer Point First Nation after this *Land Code* comes into effect.

Eligible Reserve Land

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

3. Authority to Govern

Origin of authority

- 3.1 The traditional teachings of Pottawatomi of Moose Deer Point First Nation speak of the obligation of the Pottawatomi of Pottawatomi of Moose Deer Point First Nation to care for and respect the Land and the magnificent wonders of Nature created on the Land. By enacting this *Land Code*, Pottawatomi of Moose Deer Point First Nation is re-assuming this special responsibility.

Flow of authority

- 3.2 The authority of Pottawatomi of Moose Deer Point First Nation to govern its Land and resources flows from the Creator to the Pottawatomi of Pottawatomi of Moose Deer Point First Nation, and from the people of Moose Deer Point First Nation to Council according to the culture, traditions, customs and laws of Pottawatomi of Moose Deer Point 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 Pottawatomi of Moose Deer Point First Nation Land and by which Pottawatomi of Moose Deer Point First Nation will exercise authority over that Land in accordance with the *Framework Agreement*.

5. Description of Pottawatomi of Moose Deer Point First Nation Land

Pottawatomi of Moose Deer Point First Nation Land

- 5.1 The Pottawatomi of Moose Deer Point First Nation Land that is subject to this *Land Code* is that Land known as Moose Point Indian Reserve No. 79 as listed in the Individual Agreement.

Description of Land

- 5.2 The Pottawatomi of Moose Deer Point First Nation Land includes all reserve Lands described in Appendix "A" of this *Land Code* and any other reserve Lands or Interests of Pottawatomi of Moose Deer Point First Nation that are made subject to this *Land Code* by resolution.

Additional Lands

- 5.3 Council shall hold a meeting of Members prior to amendment of the description of Pottawatomi of Moose Deer Point First Nation Land subject to this *Land Code* and Individual Agreement.

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 Pottawatomi of Moose Deer Point First Nation Land;
 - (b) Interests and Licences in relation to Pottawatomi of Moose Deer Point First Nation Land; and
 - (c) any matter necessary or ancillary to the making of Land laws in relation to Pottawatomi of Moose Deer Point 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 Pottawatomi of Moose Deer Point First Nation Land;
- (c) environmental assessment and protection;
- (d) provision of local services in relation to Pottawatomi of Moose Deer Point First Nation Land and the imposition of equitable user charges;
- (e) enforcement of Pottawatomi of Moose Deer Point First Nation Land laws; and
- (f) provision of services for the resolution, outside the courts, of disputes in relation to Pottawatomi of Moose Deer Point First Nation Land.

Regulatory Instruments

- 6.3 For greater certainty, in addition to Land laws, Council may make other regulatory instruments, including rules, regulations, standards, codes and policies.

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;
 - (c) any Eligible Voter;
 - (d) 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 proponent 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.

Procedure upon receipt of Proposed Land law

- 7.4 Upon receipt of a Land law proposal, Council may:
- (a) table the proposed Land law for further review or for enactment;

- (b) request that the proponent 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 of proposed Land laws

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

- (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 urgently for public health and safety or to protect Pottawatomi of Moose Deer Point First Nation Land or the Members, however this Land law expires one hundred and twenty (120) days after its enactment unless re-enacted in accordance with the required preliminary steps.

Approval of Land law

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 of Land laws

7.8 The original copy of any approved Land law or resolution concerning Pottawatomi of Moose Deer Point First Nation Land shall be signed by a quorum of Council.

Land laws 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 Laws

Publication

8.1 A Land law shall be:

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

- (b) posted, as soon as practicable after enactment, in a location within the administrative office of Moose Deer Point First Nation accessible to all Members;
- (c) published online; and
- (d) published by any additional method as Council may consider appropriate.

Registry of Land laws

- 8.2 Council shall cause to be kept, at the administrative offices of Pottawatomi of Moose Deer Point First Nation, a register of all Land laws and resolutions, including Land laws and resolutions that have been repealed or are no longer in force.

Copies for any Person

- 8.3 Any person may obtain a copy of a Land law or resolution.

9. Enforcement of Land Laws

Enforceability of Land laws

- 9.1 To enforce its *Land Code* and its Land laws, Pottawatomi of Moose Deer Point 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;
 - (c) establish comprehensive enforcement procedures consistent with federal law, including inspections, searches, seizures and compulsory sampling, testing and the production of information; and
 - (d) enter into agreements with provincial or municipal governments with respect to any matter concerning the enforcement of its Land Code and Land laws.

Prosecuting Offences

- 9.2 For the purpose of prosecuting offences, Pottawatomi of Moose Deer Point First Nation may:
- (a) retain its own prosecutor;
 - (b) make laws with respect to the appointment and authority of justices of the peace.

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.

Other Persons who May Attend

10.2 Any other person or class of persons may attend any Meeting of Members upon prior approval of the Council, upon the invitation of the Council, or by Resolution of Council or by majority vote of the Eligible Voters present at the Meeting of Members.

Participation Authorization for Non-Member

10.3 A person who is not a Member shall not participate in a meeting of Members unless they have authorization from Council.

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 Eligible Voters 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.

Permission of Council

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

Informed Decision

- 12.4 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 matter.

13. Meetings of Members

Member Meetings

- 13.1 Council shall call a meeting of Members prior to:
- (a) declaring Land or an Interest to be subject to this *Land Code*;
 - (b) enacting a Land law respecting a community plan or subdivision plan;
 - (c) any development affecting a heritage site or an environmentally sensitive property;
 - (d) enacting a Land law respecting environmental assessment and protection;
 - (e) enacting a Land law respecting the transfer and assignment of rights and Interests in Pottawatomi of Moose Deer Point First Nation Land;
 - (f) enacting a Land law respecting matrimonial real property on reserve;
 - (g) enacting a Land law respecting the rate and criteria for the payment of fees or rent for Pottawatomi of Moose Deer Point First Nation Land;
 - (h) enacting a Land law respecting the rights and procedures on community expropriation; and
 - (i) respecting any other matter, Land law or class of law that Council, by Resolution, declares to be subject to this section.

No Quorum

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

Conduct at Meetings

- 13.3 The Council, upon the advice of the Lands Committee, may establish rules of conduct to be followed at a Meeting of Members.

14. Community Approval

Community approval

14.1 Community approval shall be obtained for the following:

- (a) any master Land use plan;
- (b) any new grant or disposition of an Interest or Licence in any Pottawatomi of Moose Deer Point First Nation Land exceeding a term of thirty five (25) years;
- (c) any renewal of a grant or disposition of an Interest or Licence in any Pottawatomi of Moose Deer Point First Nation Land that extends the original term beyond thirty five (25) years;
- (d) any grant or disposition of any non-renewable natural resources on any Pottawatomi of Moose Deer Point First Nation Land exceeding a term of five (5) years;
- (e) any addition or deletion of a heritage/ cultural site;
- (f) any voluntary exchange of Moose Deer Point First Nation Land; and
- (g) 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 permit 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.

Second Community Approval Vote

- 14.5 A matter shall be considered approved at a second community approval vote, if a majority of fifty percent plus one (50%+1) of the Eligible Voters who participate, vote to approve the matter.
- 14.6 Despite 14.4, Council may, by resolution prior to a vote, do either of 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 46; 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 similar manner as the *Pottawatomi of Moose Deer Point 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 the participating Eligible Voters cast a vote in favour of the matter.

Increased Threshold

- 15.5 Despite 15.4, 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

Second Ratification Vote Quorum

- 15.6 In order to obtain a quorum for community approval for a second attempt at a ratification vote under this *Land Code* at least ten percent (10%) of Eligible Voters shall register to vote.

Approval by Majority

- 15.7 A matter shall be considered approved at a second ratification vote if a majority of fifty percent plus one (50%+1) of the registered Eligible Voters vote to approve the matter.

Policies Consultation, Approval and Ratification

- 15.8 For greater certainty, Council may make Land laws or policies:
- (a) for meetings of Members;
 - (b) for community consultations;
 - (c) for community approvals;
 - (d) for ratification votes; and
 - (e) respecting any other matter, that Council, by resolution, declares to be subject to Part 3 of this *Land Code*.

PART 4 PROTECTION OF LAND

16. Expropriation

Acquisition by Mutual Agreement

- 16.1 Pottawatomi of Moose Deer Point First Nation may expropriate an Interest or Licence in Pottawatomi of Moose Deer Point First Nation Land, provided that it has made a good faith effort to acquire, by mutual agreement, the Interest or Licence.

Rights and Interests that
may be expropriated

- 16.2 An Interest or Licence in Pottawatomi of Moose Deer Point First Nation Land, or in any building or other structure on that Land, may only be expropriated by Pottawatomi of Moose Deer Point First Nation in accordance with the *Framework Agreement* and any Land law enacted for the purpose of establishing the rights and procedures for community expropriations.

Community purposes

- 16.3 A community expropriation shall only be made for necessary community works or other Pottawatomi of Moose Deer Point First Nation purposes, including a fire hall, sewage or water treatment facility, community center, public works, utilities, roads, schools, daycare facility, hospitals, health-care facility, and retirement home.

Expropriation Land laws

- 16.4 Before proceeding to make any community expropriations in accordance with this *Land Code* and the *Framework Agreement*, Council shall enact a Land law respecting the rights and procedures for community expropriations, including provisions respecting:
- (a) the taking of possession of the Interest or Licence;
 - (b) transfer of the Interest or Licence;
 - (c) notice of expropriation and service of the notice of expropriation;
 - (d) entitlement to compensation;
 - (e) determination of the amount of compensation; and
 - (f) the method of payment of compensation.

Public report

- 16.5 Before Pottawatomi of Moose Deer Point First Nation expropriates an Interest or Licence, it shall make a public report on the reasons justifying the expropriation.

Member notification

- 16.6 In the case of an expropriation of a Member's Interest in Pottawatomi of Moose Deer Point First Nation Land, the affected Member or Members shall receive notification of the expropriation within a reasonable time prior to the release of the public report.

Rights that may not be expropriated

- 16.7 In accordance with clause 17.6 the *Framework Agreement*, an Interest of Canada or the province in Pottawatomi of Moose Deer Point First Nation Land is not subject to expropriation by Pottawatomi of Moose Deer Point First Nation.

Compensation for rights and Interests

- 16.8 Pottawatomi of Moose Deer Point First Nation shall, in accordance with its Land laws and the *Framework Agreement*:
- (a) serve reasonable notice of the expropriation on each affected holder of the Interest or Licence to be expropriated; and
 - (b) pay fair and reasonable compensation to the holders of the Interest or Licence being expropriated.

Compensation calculations

- 16.9 In accordance with clause 17.4 the *Framework Agreement*, Pottawatomi of Moose Deer Point 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

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

Neutral evaluation to
Resolve Disputes

- 16.11 The resolution of disputes concerning the right of Pottawatomi of Moose Deer Point First Nation to expropriate shall be determined by neutral evaluation, in the same manner as provided in Part IX of the *Framework Agreement*, and the sixty (60) day period referred to in the *Framework Agreement* shall be applied, as appropriate in the circumstance, by the neutral evaluator.

Arbitration to resolve Disputes

- 16.12 The resolution of the following disputes shall be determined by arbitration, in the same manner as provided in Part IX of the *Framework Agreement*.
- (a) disputes concerning the right of a holder of an expropriated Interest or Licence to compensation; and
 - (b) disputes concerning the amount of the compensation.

17. Voluntary Exchange of Land

Conditions for a land exchange

- 17.1 Pottawatomi of Moose Deer Point First Nation may agree with another party to exchange a parcel of Pottawatomi of Moose Deer Point First Nation Land for a parcel of land from that other party in accordance with this *Land Code* and the *Framework Agreement*.

No effect

- 17.2 A land exchange is of no effect unless it receives community approval in accordance with this *Land Code* and with clause 14.2 of the *Framework Agreement*.

Land to be received

- 17.3 No land exchange may occur unless the land to be received in the exchange meets the following conditions:
- (a) it shall be equal to or greater than the area of the Pottawatomi of Moose Deer Point First Nation Land to be exchanged;

- (b) it shall be at least comparable to the appraised value of the Pottawatomi of Moose Deer Point First Nation Land; and
- (c) it shall become a reserve and Pottawatomi of Moose Deer Point First Nation Land subject to this *Land Code*.

Negotiators

- 17.4 The person who will have authority to negotiate a land exchange agreement on behalf of Pottawatomi of Moose Deer Point First Nation shall be designated by resolution.

Additional land

- 17.5 Pottawatomi of Moose Deer Point 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 Pottawatomi of Moose Deer Point First Nation in fee simple or some other manner.

Federal Consent

- 17.6 Before Pottawatomi of Moose Deer Point First Nation concludes a land exchange agreement, it shall receive a written statement from Canada clearly stating that Canada:
- (a) consents to set apart as a reserve the land to be received in exchange, as of the date of the land exchange or such later date as Council may specify; and
 - (b) consents to the manner and form of the exchange as set out in the exchange agreement.

Community notice

- 17.7 Once negotiations on the land exchange agreement are concluded, Council shall provide the following information to Eligible Voters before the vote:
- (a) a description of the Pottawatomi of Moose Deer Point First Nation Land to be exchanged;
 - (b) a description of the land to be received in the exchange;
 - (c) a description of any other compensation to be exchanged;
 - (d) a report of 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 exchange agreement; and
 - (f) a copy of Canada's consent.

Process of land exchange

17.8 The land exchange agreement shall provide that:

- (a) the other party to the exchange must transfer to Canada the title to the land which is to be set apart as a reserve;
- (b) Council must pass a resolution authorizing Canada to transfer title to the Pottawatomi of Moose Deer Point First Nation Land being exchanged, in accordance with the exchange agreement;
- (c) a copy of the instruments transferring title to the relevant parcels of land must be registered in the First Nation Lands Register; and
- (d) 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 Pottawatomi of Moose Deer Point First Nation, and with full indemnification to Pottawatomi of Moose Deer Point First Nation.

PART 5 ACCOUNTABILITY

18. Conflict of Interest or Appearance of Conflict of Interest

Application of rules

18.1 The conflict of interest rules in 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 Pottawatomi of Moose Deer Point First Nation Land;
- (b) each person who is an employee of Pottawatomi of Moose Deer Point First Nation dealing with any matter that is related to Pottawatomi of Moose Deer Point 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 Pottawatomi of Moose Deer Point First Nation dealing with any matter that is related to Pottawatomi of Moose Deer Point 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

- 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 meeting of Members and, if a quorum of Eligible Voters is present, a majority of the Eligible Voters present at the meeting may approve the matter, Land law or resolution.

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 Pottawatomi of Moose Deer Point First Nation Land. Council or any other elected board, committee or body is exempt from this rule.

Disputes

- 18.7 The 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 laws to further implement this section.

19. Financial Management

Application

- 19.1 This section applies only to financial matters relating to Pottawatomi of Moose Deer Point 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 Pottawatomi of Moose Deer Point First Nation Land and natural resources;
- (b) managing financial records and accounts;
- (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 Pottawatomi of Moose Deer Point 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

Publish annual report

- 20.1 Council, on behalf of Pottawatomi of Moose Deer Point First Nation, shall publish an annual report on Land matters.

Contents

- 20.2 The annual report shall include:

- (a) an annual review of Pottawatomi of Moose Deer Point First Nation Land and natural resources management;
- (b) annual budget;
- (c) a copy and explanation of the audit as it applies to Pottawatomi of Moose Deer Point 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 Pottawatomi of Moose Deer Point First Nation, have reasonable access to:
- (a) the register of Land laws;
 - (b) the auditor's report; and
 - (c) the annual report on Land and natural resources.

Copies for Members

- 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 Pottawatomi of Moose Deer Point First Nation related to Pottawatomi of Moose Deer Point First Nation Land.

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 Pottawatomi of Moose Deer Point First Nation Land;
- (c) recommend Land laws, resolutions, policies and practices respecting Pottawatomi of Moose Deer Point First Nation Land to Council;
- (d) consult with Members and non-Members on Pottawatomi of Moose Deer Point 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.

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.

Policy Governing Successors to the First Lands Committee

- 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 providing for Member involvement in 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.

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) the fees and rent for Interests and Licences in Pottawatomi of Moose Deer Point First Nation Land;
 - (b) the fees for services provided in relation to any Pottawatomi of Moose Deer Point First Nation Land; and
 - (c) the fees and royalties to be paid for the taking of natural resources from Pottawatomi of Moose Deer Point First Nation Land.

26. Registration of Interests and Licences

Enforcement of Interest and Licences

- 26.1 An Interest or Licence in Pottawatomi of Moose Deer Point 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.

Registration of Consent or approval

- 26.2 An instrument granting an Interest or Licence in Pottawatomi of Moose Deer Point First Nation Land that requires the consent of Council, or community approval, shall include a form of certificate indicating that the applicable consent or approval has been obtained.

Duty to deposit

- 26.3 A copy of the following instruments shall be deposited in the First Nation Lands Register:
- (a) any grant of an Interest or Licence in Pottawatomi of Moose Deer Point First Nation Land;
 - (b) any transfer or assignment of an Interest or Licence in Pottawatomi of Moose Deer Point First Nation Land;
 - (c) every Land use plan, subdivision plan or resource use plan;
 - (d) every Land law; and
 - (e) this *Land Code* and any amendment to this *Land Code*.

27. Limits on Interests and Licences

All dispositions in writing

- 27.1 An Interest or Licence in Pottawatomi of Moose Deer Point 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 Pottawatomi of Moose Deer Point 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 Pottawatomi of Moose Deer Point First Nation, a Member or any other person purports to grant, dispose of, transfer or assign an Interest or Licence in Pottawatomi of Moose Deer Point 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 Pottawatomi of Moose Deer Point First Nation Land that existed when this *Land Code* takes effect will, subject to this *Land Code*, continue in force in accordance with its terms and conditions.

Voluntary replacement of existing Interests and Licences

- 28.2 For greater certainty, Interests or Licences previously issued under the *Indian Act* shall continue in effect after the coming into force of this *Land Code* unless the Member or non-Member voluntarily agrees to have the Interest or Licence replaced by a new Interest or Licence.

Replacing the role of the Minister

- 28.3 Immediately upon the coming into force of this Land Code, Canada transfers to Pottawatomi of Moose Deer Point First Nation all the rights and obligations of Canada as grantor in respect of existing Interests and Licences in or in relation to Pottawatomi of Moose Deer Point First Nation Land.

29. New Interests and Licences

Authority to make dispositions

- 29.1 Council may, on behalf of Pottawatomi of Moose Deer Point First Nation, grant:
- (a) Interests and Licences in Pottawatomi of Moose Deer Point First Nation Land, including certificates of possession, member allocations, leases, permits, easements and rights-of-ways; and

- (b) Licences to take natural resources from Pottawatomi of Moose Deer Point First Nation Land, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances.

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. Interests of Non-Members

Grants to non-Members

- 30.1 A transfer or other disposition of all or any part of an Interest or Licence in Pottawatomi of Moose Deer Point First Nation Land to a person who is not a Member shall not be effective unless and until it is confirmed by a resolution of Council.

31. Allocation of Land to Members

Policies and procedures for allocation of Land

- 31.1 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

- 31.2 Council may, in accordance with this *Land Code*:
 - (a) allocate Land to Members; or
 - (b) issue a certificate for an Interest to a Member for Land allocated to that Member.

No allocation of Land to non-Members

- 31.3 A person who is not a Member is not entitled to be allocated Land or to hold a permanent Interest in Pottawatomi of Moose Deer Point First Nation Land.

32. Transfer and Assignment of Interests

Transfer of Member Interest

- 32.1 A Member may transfer or assign an Interest in Pottawatomi of Moose Deer Point First Nation Land to another Member without community approval or the consent of Council.

Consent of Council

- 32.2 There shall be no transfer or assignment of an Interest in Pottawatomi of Moose Deer Point 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 the matrimonial real property on reserve law.

33. Limits on Mortgages and Seizures

Protections

- 33.1 In accordance with the *Framework Agreement*, the following provisions of the *Indian Act*, as amended from time to time, continue to apply to Pottawatomi of Moose Deer Point First Nation Land:
- (a) section 29;
 - (b) section 87;
 - (c) Sub-section 89(1); and
 - (d) Sub-section 89(2).

Mortgage of Allocated Land

- 33.2 The Interest of a Member in First Nation Land may be subject to a mortgage or charge, but only to a Member or, Pottawatomi of Moose Deer Point First Nation with the express written consent of Council.

Mortgages of leasehold
Interests with consent

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

Time limit

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

Default in mortgage

- 33.5 In the event of default in the terms of a charge or mortgage of a leasehold Interest, the leasehold Interest is not subject to possession by the chargee or mortgagee, foreclosure, power of sale or any other form of execution or seizure, unless:
- (a) the charge or mortgage received the written consent of Council;
 - (b) the charge or mortgage was registered in the First Nation Lands Register;
and

- (c) a reasonable opportunity to redeem the charge or mortgage is given to Council on behalf of Pottawatomi of Moose Deer Point First Nation.

Power of redemption

- 33.6 Subject to prior redemption by the lessee or Member, Council 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

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

34. Public Access

Public access

- 34.1 Any person may have access to Pottawatomi of Moose Deer Point First Nation Land for any social or business purposes, if:
- (a) the person does not trespass on occupied Land and does not interfere with any Interest in Land;
 - (b) the person complies with all applicable laws; and
 - (c) no resolution has been enacted barring that person.

Use of Roads

- 34.2 Any person may access Pottawatomi of Moose Deer Point First Nation Land public roads, subject to this *Land Code* and Land laws.

Trespass

- 34.3 Any person, who resides on, enters or remains on Pottawatomi of Moose Deer Point First Nation Land, other than in accordance with a residence or access right under this *Land Code*, is guilty of an offence.

Civil remedies

- 34.4 All civil remedies for trespass are preserved.

35. Transfers on Death

Indian Act application

- 35.1 Subject to any land laws on family homes and matrimonial interests, until Pottawatomi of Moose Deer Point 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 Pottawatomi of Moose Deer Point First Nation Land.

Registered of transfer

- 35.2 A person who receives an Interest in Pottawatomi of Moose Deer Point 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

- 35.3 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 Pottawatomi of Moose Deer Point 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 Pottawatomi of Moose Deer Point First Nation.

36. Matrimonial Real Property on Reserve Law

Development of rules and procedures

- 36.1 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 Pottawatomi of Moose Deer Point First Nation Land;
 - (b) the division of the value of any Interests held by Spouses in or to structures and lands on Pottawatomi of Moose Deer Point 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

- 36.2 The rules and procedures contained in family homes and matrimonial Interests Land laws shall be developed by the Lands Committee in consultation with the Members.

Additional Provisions

- 36.3 Family homes and matrimonial Interests Land Laws may include:
- (a) provisions for administrating those laws;

- (b) despite subsection 89 (1) of the *Indian Act*, provisions for enforcing, on Pottawatomi of Moose Deer Point 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

- 36.4 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.

PART 8 DISPUTE RESOLUTION

37. Purpose

Intent

- 37.1 The intent of this Part is to ensure that all persons entitled to possess, reside upon, use or otherwise occupy Pottawatomi of Moose Deer Point First Nation Land do so harmoniously with due respect to the rights of others and of Pottawatomi of Moose Deer Point First Nation and with access to Pottawatomi of Moose Deer Point First Nation procedures to resolve disputes.

Purpose

- 37.2 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.

38. Disputes

Dispute Prevention

- 38.1 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*

- 38.2 Disputes that arose before the *Land Code* takes effect could also be referred to this Part.

Decision of Council or
Lands Committee

- 38.3 If a Member, or a non-Member with an Interest in Pottawatomi of Moose Deer Point 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 Panel.

Settle a Dispute

- 38.4 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.

Settlement Agreement

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

Contractual Agreement

- 38.6 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

- 38.7 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 Panel in writing.

Civil Remedies

- 38.8 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

- 38.9 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.

39. Processes

Staged Processes

- 39.1 Pottawatomi of Moose Deer Point First Nation intends that a dispute in relation to Pottawatomi of Moose Deer Point First Nation Land, except as otherwise provided, may progress through the following stages:
- (a) facilitated discussions;
 - (b) mediation;

- (c) negotiation; and
- (d) final arbitration by the Dispute Resolution Panel.

Procedure to File a Dispute

39.2 A person who wishes to resolve a dispute with another person or Pottawatomi of Moose Deer Point First Nation in relation to the use or occupation of Pottawatomi of Moose Deer Point 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

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

- (a) the parties reach an agreement;
- (b) one of the parties refuses to continue with the facilitated discussion, mediation or negotiation;
- (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

39.4 A notice of termination is required when further facilitated discussions, mediation or negotiation 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

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

- (a) administration or distribution of an estate;
- (b) decisions relating to housing allocations;
- (c) decisions of Council to grant or refuse to grant an Interest or Licence in Pottawatomi of Moose Deer Point First Nation Land to a non-Member;
- (d) decisions on expropriation under this *Land Code*: and

- (e) prosecution or conviction of an offence under a Land law or under criminal law.

Duty of Fairness

39.6 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

39.7 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, mediations, negotiations 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 Panel;
- (g) implementing recommendations of the Panel; and
- (h) any other matter necessary to give effect to this Part.

Waiver of Liability

39.8 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.

40. Roster Panel Established

Appointment to Roster Panel

40.1 The Roster Panel shall be composed of a maximum of twenty (20) panelists.

Ineligible

40.2 Notwithstanding the general rules of conflict of interest in the *Land Code*, no Council member, or employee of Pottawatomi of Moose Deer Point First Nation or person already serving on another board, body, or committee related to Pottawatomi of Moose Deer Point First Nation Land shall sit on the Roster Panel.

Representation

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

Rules of Roster Panel

40.4 The Roster Panel may establish rules for the procedure at its hearings and generally for the conduct of its affairs.

41. Impartiality of the Dispute Resolution Panel

Duty to Act Impartially

41.1 The Panel shall act impartially and without bias or favour to any party in a dispute.

Offence

41.2 It is an offence for a person to act, or attempt to act, in a way to improperly influence a decision of the Panel.

Rejection of Application

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

Rules of Conduct for Parties to a Dispute

41.4 The Roster Panel shall establish rules of conduct for the parties to a dispute.

42. Arbitration by the Dispute Resolution Panel

Disputes

42.1 Applications for resolution by the Panel shall be submitted to the Lands Department.

Panel of Three Chosen from Roster Panel

42.2 Disputes referred to the Roster Panel are to 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 chairperson, shall be chosen by the rest of the Panel; and
- (c) in the case of situations not adequately covered by clause (a) or (b), all three (3) panelists shall to be chosen by the Roster Panel as a whole.

Panel Established

42.3 The Panel is hereby established with jurisdiction to resolve disputes in relation to Pottawatomi of Moose Deer Point First Nation Land.

Dispute resolution not available

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

43. Powers of the Dispute Resolution Panel

Power of the Panel

- 43.1 The Panel may, after hearing a dispute:
- (a) confirm or reverse the decision, in whole or in part;
 - (b) substitute its own decision for the decision in dispute;
 - (c) direct that an action be taken or ceased;
 - (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 Pottawatomi of Moose Deer Point First Nation Land, the registration of an Interest in Pottawatomi of Moose Deer Point 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

- 43.2 In addition to making a determination in respect to a particular dispute, the Panel may recommend to Council:
- (a) the suspension of any Land law or decision made by Council 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

- 43.3 The 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 in Pottawatomi of Moose Deer Point First Nation Land.

Professional Services

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

Written Decisions

- 43.5 Decisions of the Panel shall be in writing, signed by the person chairing the Panel or by an officer designated by the 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

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

PART 9 OTHER MATTERS

44. Liability

Liability Coverage

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

Extent of coverage

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

45. Offences

Application of the Criminal Code

- 45.1 Unless some other procedure is provided for by a Pottawatomi of Moose Deer Point First Nation Land law, the summary conviction procedures of Part XXVII of the Criminal Code, as amended from time to time, apply to offences under this *Land Code* or under a First Nation Land law.

Fines & Imprisonment

- 45.2 Unless some other procedure is provided for by a Pottawatomi of Moose Deer Point First Nation Land law, any person who commits an offence under this *Land Code* or a Pottawatomi of Moose Deer Point First Nation Land law is liable to a fine not to exceed \$5,000 and to a term of imprisonment not to exceed six months or to both fine and imprisonment, provided however, that offences related to Pottawatomi of Moose Deer Point First Nation environmental protection laws may carry penalties consistent with similar environmental protection laws in force in Canada.

46. Revisions to *Land Code*

Revisions

- 46.1 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 Pottawatomi of Moose Deer Point First Nation Land subject to this *Land Code* and Individual Agreement;
 - (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 an 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 other acts;
 - (e) minor improvements in the language as may be required to bring out more clearly the intention of Pottawatomi of Moose Deer Point First Nation without changing the substance of this *Land Code*; and
 - (f) correct editing, grammatical or typographical errors.

47. Commencement

Preconditions

- 47.1 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

- 47.2 This *Land Code* shall take effect on the first day of the month following the certification of this *Land Code* by the verifier.

APPENDIX “A”

Description of the Pottawatomi of Moose Deer Point First Nation Land as listed as ANNEX “G” in the Individual Agreement on First Nation Land Management between Pottawatomi of Moose Deer Point First Nation and Canada.

ANNEX “G”

Moose Point Indian Reserve No. 79

Land Description of the extent of Reserve Lands that will be subject to the Land Code of Moose Deer Point First Nation under the First Nations Land Management Act.

Reserve Lands within Lots 54, 55, & 56, Concession 7, Lots 50 & 51, Concession 8, Lots 56 & 57, Concession 9 and Lot 58, Concession 10 in the Geographic Township of Freeman, District Municipality of Muskoka, Province of Ontario, Canada.

Comprised of the following lands, excluding mines and minerals,

All those portions of Moose Point Indian Reserve No. 79, as shown on Plan 89811 recorded in the Canada Lands Surveys Records (CLSR), Plan 89812 CLSR, and Plan 89910 CLSR.

Total lands excluding mines and minerals, containing 290 hectares (718 acres) more or less.

Notes

Administrative Sketches 1, 2 and 3, Section 4, illustrate this land description.

Refer to the pertinent survey plans and instruments for the authoritative boundary definition and the nature of the interests in the land.

The extent of Oil and Gas are not dealt with in this description.