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# ALGONQUINS OF PIKWAKANAGAN FIRST NATION LAND CODE

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Dated for Reference  
January 28, 2019

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## **Preamble**

**Whereas** the Algonquins of Pikwakanagan First Nation has a profound relationship with the Land;

**And whereas,** the Members of the Algonquins of Pikwakanagan First Nation are a proud united people whose purpose is to establish a future that shall ensure a high quality of life while flourishing the environment;

**And whereas,** the Algonquins of Pikwakanagan First Nation aspires to move ahead as an organized, highly motivated, determined and self-reliant community;

**And whereas,** the Algonquins of Pikwakanagan First Nation has entered into the Framework Agreement on First Nation Land Management with Canada on March 25, 2013 and which was ratified on behalf of the Government of Canada by the First Nations Land Management Act, S.C. 1999, c.24;

**And whereas,** the Algonquins of Pikwakanagan First Nation wishes to manage its Land and resources, rather than having its Land and resources managed on its behalf by Canada in accordance with the *Indian Act*.

**Now therefore,** this *Land Code* is hereby enacted as the Fundamental Land Law of the Algonquins of Pikwakanagan First Nation.

## **PART 1 PRELIMINARY MATTERS**

### **1. Title**

Title

- 1.1 The title of this enactment is the Algonquins of Pikwakanagan First Nation *Land Code*.

### **2. Definitions**

Clarification

- 2.1 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

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

“Algonquins of Pikwakanagan First Nation Land” or “Pikwakanagan Land” means the reserve land that is subject to this Code;

“Appeal Board” means the board that Council has established to hear appeals on Land matters;

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

“Common-Law Partnership” means the relationship between two (2) persons who are cohabiting in a conjugal relationship;

“Community Land” means any land that the Algonquins of Pikwakanagan First Nation hold in which all Members have a common interest;

“Council” means the Council, as defined by the Custom Election Code of the Algonquins of Pikwakanagan First Nation;

“Eligible Voter” means for voting in respect of Land matters under this *Land Code*, a Member who has attained the age of eighteen (18) years of age and is a Member of the Algonquins of Pikwakanagan First Nation on or before the day of the vote;

“First Nation Lands Register” means the register established pursuant to clause 51 of the Framework Agreement;

“Framework Agreement” means the Framework Agreement on First Nation Land Management, entered between Canada and the signatory First Nations on February 12, 1996 and amended to include the Algonquins of Pikwakanagan First Nation on March 25, 2013;

“Immediate Family” includes father, mother, son, daughter, brother, sister, spouse and grandparents, grandchildren, step family and spouse’s Immediate Family;

“Individual Agreement” means the Individual Agreement made between the Algonquins of Pikwakanagan First Nation and Canada in accordance with clause 6.1 of the Framework Agreement;

“Interest” in relation to Algonquins of Pikwakanagan 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, permit, easement, right of way, servitude, or profit à prendre, but does not include title to that Land;

“*Land Code*” means the Algonquins of Pikwakanagan First Nation *Land Code*, and sets out the basic provisions regarding the exercise of the Algonquins of Pikwakanagan First Nation’s rights and powers over its Land;

“Land Law” means a law, including, but not limited to, policies, regulations, standards, restricted to Algonquins of Pikwakanagan First Nation Land, enacted in accordance with this *Land Code*;

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

“Member” means a person who has been accepted under the Membership Code as a Member of the Algonquins of Pikwakanagan First Nation;

“Meeting of Members” means a meeting under PART 3 of this *Land Code* to which the Members are invited to attend;

“Non-Member” means a person whose name does not appear in the Membership Register and who is not entitled to have his name appear in the Membership Register;

“Resolution” means a Resolution of Council enacted under this *Land Code*;

“Riparian Rights” means the legal right of owners of land bordering on a river or other body of water, and any law that pertains to use of the water for that land;

“Roster Panel” means the Dispute Resolution Panel established under PART 8 of this *Land Code*;

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

“Standing Committee on Lands” means the Lands Committee established under PART 6 of this *Land Code*;

### **3. Interpretation**

#### Interpretation

#### 3.1 In this *Land Code*:

- (a) the *Land Code* shall be interpreted in a fair, large and liberal manner;
- (b) the word “shall” signify 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) 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;

- (e) titles and headings of Parts and Provisions have been inserted in the *Land Code* for convenience of reference only, and are not interpretive aids;
- (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 of days means consecutive days and not business days;
- (h) where the time limit 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 limit for the completion of an act in the Algonquins of Pikwakanagan First Nation Administration Office falls on a day when the office is not open during regular business hours, the act may be completed 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

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

#### Language

3.3 The language of the Algonquins of Pikwakanagan 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.

#### Paramount

3.4 If there is an inconsistency or conflict between this *Land Code* and any other enactment of the Algonquins of Pikwakanagan 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.

#### Consistency with Framework Agreement

3.5 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.

#### Rights not Affected

3.6 This *Land Code* does not change:

- (a) the by-law powers of Council pursuant to the *Indian Act*;
- (b) any Aboriginal, Treaty, inherent rights or other rights or freedoms that pertain now or in the future to the Algonquins of Pikwakanagan First Nation or its Members; or
- (c) the fiduciary relationship between Canada and the Algonquins of Pikwakanagan First Nation and its Members.

## Lands and Interests Affected

- 3.7 A reference to Land in this *Land Code* includes all the interests and rights, as well as the resources that belong to the 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 to the Algonquins of Pikwakanagan First Nation by Canada listed in the Individual Agreement; and
  - (c) all the Interests and Licences granted by the Algonquins of Pikwakanagan First Nation after this *Land Code* comes into effect.

## Eligible Reserve Land

- 3.8 Only Land that has reserve status is eligible to be governed under this *Land Code*.

**4. Authority to Govern**

## Origin of Authority

- 4.1 The original teachings of the Algonquins of Pikwakanagan First Nation speak of the obligation of the Members to care for and respect the Land and the magnificent wonders of nature created on the Land. By enacting this *Land Code*, the Algonquins of Pikwakanagan First Nation continue to hold this special responsibility.

## Flow of Authority

- 4.2 The authority of the Algonquins of Pikwakanagan First Nation to govern its Land and resources flows from the Creator to the people of the Algonquins of Pikwakanagan First Nation, and from the people to the Council according to the laws of the Algonquins of Pikwakanagan First Nation.

**5. Purpose**

## Purpose

- 5.1 The purpose of this *Land Code* is to set out the principles, rules and administrative structures that apply to Algonquins of Pikwakanagan First Nation Land by which the Algonquins of Pikwakanagan First Nation will exercise authority over that Land in accordance with the *Framework Agreement*.

**6. Description of the Algonquins of Pikwakanagan First Nation Land**

## Algonquins of Pikwakanagan First Nation Land

- 6.1 Pikwakanagan Land that is subject to this *Land Code* is that Land known as Pikwakanagan as listed in the Individual Agreement.

## Description of Land

- 6.2 Algonquins of Pikwakanagan First Nation Land includes Lands described in Appendix "A" of this *Land Code* and any other reserve Lands and Interests of the Algonquins of Pikwakanagan First Nation that are made subject to this *Land Code* by Resolution.



## Additional Lands

- 6.3 Council shall hold a community meeting in accordance with Part 3PART 314, prior to passing a Resolution under clause 6.2.

## **PART 2 FIRST NATION LEGISLATION**

### **7. Law-Making Powers**

## Council May Make Land Laws

- 7.1 The Council may, in accordance with this *Land Code*, make Land Laws respecting:
- (a) the development, conservation, protection, management, use and possession of Algonquins of Pikwakanagan First Nation Land;
  - (b) Interests and Licences in relation to the Algonquins of Pikwakanagan First Nation Land; and
  - (c) any matter necessary or ancillary to the making of Land Laws in relation to Algonquins of Pikwakanagan First Nation Land.

## Examples of Land Laws

- 7.2 For greater certainty, Council may make Land Laws including, but not limited to:
- (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 Algonquins of Pikwakanagan First Nation Land;
  - (c) environmental assessment and protection;
  - (d) provision of local services in relation to Algonquins of Pikwakanagan First Nation Land and the imposition of equitable user charges;
  - (e) enforcement of Algonquins of Pikwakanagan First Nation Land Laws; and,
  - (f) provision of services for the resolution, outside the courts, of disputes in relation to Algonquins of Pikwakanagan First Nation Land.

## Regulatory Instruments

- 7.3 For greater certainty, in addition to Land Laws, Council may make other regulatory instruments, including, but not limited to, rules, regulations, standards, codes and policies.

### **8. Law-Making Procedure**

## Introduction of Land Laws

- 8.1 A proposed Land Law may be introduced at a duly convened meeting of Council by:
- (a) the Chief;
  - (b) a Councillor; or
  - (c) a representative of the Standing Committee on Lands; or other body or authority composed of Members, that may be authorized by Council to do so.

## Rationalization of Proposal

- 8.2 It shall be incumbent upon any proponent mentioned in clause 8.1 to submit a written explanation for the reason for the proposed Land Law.

## Land Committee Review

8.3 Council shall refer a proposed Land Law to the Standing Committee on Lands for review and comment

## Procedure Upon Receipt of Proposal

8.4 Upon receipt of a proposed Land Law proposal, Council may:

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

## Tabling and Posting of Proposed Land Laws

8.5 Before a proposed Land Law may be enacted Council shall:

- (a) table the proposed Land Law at a duly convened meeting of the Council;
- (b) post it in public places and online;
- (c) deposit the proposed Land Law with Standing Committee on Lands; and
- (d) post the Land Law in public places and on the Algonquins of Pikwakanagan First Nation web page and
- (e) take any other steps to give notice of the proposed Land law that Council may consider appropriate.

## Urgent Matters

8.6 The Council may enact a Land Law without the preliminary steps required, if the Council is of the opinion that the Land Law is needed urgently for public health and safety or to protect Pikwakanagan 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

8.7 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.

## Certificate of Land laws

8.8 The original copy of any approved Land Law or Resolution concerning Algonquins of Pikwakanagan First Nation Land shall be signed by a quorum of Council.

## Land Laws Taking Effect

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

## 9. Publication of Land Laws

## Publication

9.1 Land Laws pursuant to this *Land Code* shall be published:

- (a) in the minutes of the Council meeting at which it was enacted;
- (b) by posting a copy of the Land Law, as soon as practicable after enactment, in a location within the Administrative Office of the Algonquins of Pikwakanagan First

Nation accessible to all Members, for a period of not less than thirty (30) days thereafter;

- (c) on-line; and
- (d) any additional method as Council may consider appropriate.

#### Registry of Land Laws

9.2 Council shall cause to be kept, at the Administrative Office of the Algonquins of Pikwakanagan First Nation, the original of all Land Laws and Resolutions including Land Laws and Resolutions that have been repealed or are no longer in force. A register will be kept of all.

#### Copies for any Person

9.3 Any person may obtain a copy of a Land Law or Resolution on payment of a reasonable fee set by Council or a designate. Fees may be amended from time to time.

### 10. Enforcement of Land Laws

#### Enforceability of Lands Laws

10.1 To enforce its *Land Code* and its Land Laws, the Algonquins of Pikwakanagan 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.

#### Prosecuting Offences

10.2 For prosecuting offences, the Algonquins of Pikwakanagan First Nation may:

- (a) retain its own prosecutor;
- (b) make laws with respect to the appointment and authority of justices of the peace.
- (c) enter into agreements with provincial or municipal governments with respect to any matter concerning the enforcement of its *Land Code* and Land Laws.

## PART 3 COMMUNITY MEETINGS AND APPROVALS

### 11. Participation of Members

#### Participation of Members

11.1 Every Member is entitled to participate in the community meetings process.

### 12. Participation of Eligible Voters

#### Participation of Eligible Voters

12.1 Every Eligible Voter is entitled to participate in the community approval processes set out in this PART 3 of the *Land Code*.

### **13. Meeting of Members and Community Approval Procedure**

#### Written Notice

- 13.1 The Council shall give written notice of the community Meeting of Members and any matter relating to this Code 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 matters to be discussed and decided on at the meeting;
  - (c) a brief description of any matter that requires community approval; and
  - (d) other information and material that Council considers appropriate.

#### Manner of Notice

- 13.2 The notice shall be given to the Members at least forty-two (42) days before the meeting or vote, by:
- (a) posting the notice in public places;
  - (b) mailing the notice to Members who have provided current mailing addresses;
  - (c) posting the notice online;
  - (d) publishing the notice in the community newsletter or local paper; and
  - (e) additional methods Council considers appropriate.

#### Permission of Council

- 13.3 A Non-Member may attend a community Meeting of Members only with permission of Council.

#### Informed Decision

- 13.4 Council may schedule more than one Meeting of Members as may be necessary to ensure that Members are well informed before deciding on a proposed Land Law or Land matter.

### **14. Community Meetings of Members**

#### Community Meetings

- 14.1 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 Algonquins of Pikwakanagan First Nation Land;
  - (f) enacting a Land Law respecting the rate and criteria for the payment of fees or rent for Algonquins of Pikwakanagan First Nation Land;
  - (g) enacting a Land Law respecting the rights and procedures on community expropriation; and
  - (h) respecting any other matter, Land Law or class of law that Council, by Resolution, declares to be subject to this section.

## No Quorum

14.2 No quorum or minimum level of participation is required at a Meeting of Members.

**15. Community Approval**

## Community Approval

15.1 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 to a Non-Member in Pikwakanagan exceeding a term of thirty-five (35) years;
- (c) any renewal of a grant or disposition of an Interest or Licence to a Non-Member in Pikwakanagan that extends the original term beyond thirty-five (35) years;
- (d) any grant or disposition of any non-renewable natural resources on any Algonquins of Pikwakanagan First Nation Land exceeding a term of five (5) years;
- (e) any deletion of a heritage site;
- (f) any voluntary exchange of Algonquins of Pikwakanagan First Nation Land referred to in Part 4 of this *Land Code*; and
- (g) any Land Law or class of law that Council, by Resolution, declares to be subject to this section.

## Utility Permits Excepted

15.2 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

15.3 Community approval may be obtained by calling for a vote, and one or more of the following methods, including:

- (a) establishing polling locations;
- (b) show of hands;
- (c) returned ballot;
- (d) telephone voting;
- (e) electronic voting; or
- (f) any other method outlined in voting policies.

## Quorum

15.4 To obtain a quorum for community approval, at least ten percent (10%) of Eligible Voters shall participate.

## Approval by Majority

15.5 For community approvals under section 15.4, a matter shall be considered approved if a majority of fifty percent plus one vote (50% + 1 vote) of the participating Eligible Voters vote to approve the matter.

## Second Community Approval Vote

15.6 If a quorum was not obtained at a first community approval, a second community approval vote may be called.

## Second Quorum

15.7 To obtain a quorum for a second attempt at a community approval, at least five percent (5%) of Eligible Voters shall participate.

## Approval by Majority

15.8 A matter shall be considered approved at a second attempt at a community approval under section 15.7, if a majority of fifty percent plus one vote (50% + 1 vote) of the participating Eligible Voters vote to approve the matter.

**16. Ratification Vote**

## Community Approval by Ratification Vote

16.1 Community approval by a Ratification Vote shall be obtained for an amendment to this *Land Code*.

## Exceptions

16.2 A community approval by Ratification Vote is not required for:

- (a) an amendment to the description of Land in this *Land Code*;
- (b) revisions to this *Land Code* made pursuant to section 48; and
- (c) an amendment to, or renewal of, the Individual Agreement.

## Ratification Process

16.3 Any Ratification vote required under this *Land Code* shall be conducted in substantially the same manner as outlined in the Algonquins of Pikwakanagan First Nation Community Ratification Process which was used to ratify this *Land Code*.

## Verifier

16.4 A verifier is not required in any ratification vote.

## Quorum

16.5 To obtain a quorum for a community approval by Ratification Vote under this *Land Code*, at least twenty percent (20%) of Eligible Voters shall participate.

## Minimum Requirements for Approval

16.6 A matter shall be considered approved at a Ratification Vote under section 16.5, if a majority of fifty percent plus one vote (50%+1 vote) of the participating Eligible Voters vote to approve the matter.

## Second Ratification Vote

16.7 If a quorum was not obtained at a first Ratification Vote, a second Ratification Vote may be called.

## Second Ratification Vote Quorum

16.8 To obtain a quorum for a second attempt at a community approval by Ratification Vote under this *Land Code*, at least ten percent (10%) of Eligible Voters shall vote.

## Approval by Majority

16.9 A matter shall be considered approved at a second Ratification Vote under section 16.8, if a majority of fifty percent plus one vote (50%+1 vote) of the participating Eligible Voters vote to approve the matter.

Policies, Consultation, Approval and Ratification

16.10 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**

### **17. Expropriation**

Acquisition by Agreement

17.1 The Council of the Algonquins of Pikwakanagan First Nation may expropriate an Interest or Licence Algonquins of Pikwakanagan First Nation in Pikwakanagan 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

17.2 Any Interest or Licence in Algonquins of Pikwakanagan First Nation Land, or in any building or other structure on those Lands, may only be expropriated by the Council Algonquins of Pikwakanagan First Nation in accordance with section 17 of the *Framework Agreement* and any Land Law enacted for the purpose of establishing the rights and procedures for community expropriations.

Community Purpose

17.3 A community expropriation shall only be made for a necessary community works or other community purposes, including but not limited to, a fire hall, sewage or water or treatment facility, community centre, public works, utilities, roads, schools, daycare centre, hospitals, health-care facility, and retirement home.

Expropriation Laws

17.4 Before proceeding to make any community expropriations in accordance with this *Land Code* and the *Framework Agreement*, Algonquins of Pikwakanagan First Nation 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 for compensation.

Member Notification

17.5 In the case of an expropriation of a Member's Interest in the Algonquins of Pikwakanagan First Nation Land, the affected Member or Members must receive notification of the expropriation within a reasonable time prior to the release of the public report.

## Public Report

17.6 Before the Council of Algonquins of Pikwakanagan First Nation decide to expropriate an Interest or License, it shall prepare a public report stating the reasons justifying the proposed expropriation.

## Rights That May Not Be Expropriated

17.7 In accordance with clause 17.6 of the *Framework Agreement*, any Interest of Canada or the province of Ontario in the Algonquins of Pikwakanagan First Nation Land is not subject to expropriation by the Algonquins of Pikwakanagan.

## Compensation for Rights and Interests

17.8 The Algonquins of Pikwakanagan 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;
- (b) pay fair and reasonable compensation to the holders of the Interest or Licence being expropriated.

## Compensation Calculations

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

## Market Value

17.10 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

17.11 The resolution of disputes concerning the right of the Algonquins of Pikwakanagan 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 circumstances, by a neutral evaluator.

## Arbitration to Resolve Disputes

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

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

**18. Voluntary Land Exchanges and Protections**

## Conditions for a Land Exchange

18.1 The Algonquins of Pikwakanagan First Nation may agree with another party to exchange a parcel of Algonquins of Pikwakanagan First Nation community held Land for a parcel of land off reserve from another party in accordance with this *Land Code* and the *Framework Agreement*.



## No Effect

18.2 A land exchange is of no effect unless it receives community approval in accordance with clause 14.2 of the *Framework Agreement*.

## Land to be Received

18.3 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 Algonquins of Pikwakanagan First Nation Land to be exchanged;
- (b) it shall be at least comparable to the appraised value of Algonquins of Pikwakanagan First Nation Land; and
- (c) it shall become a reserve and Algonquins of Pikwakanagan First Nation Land subject to this *Land Code*.

## Negotiators

18.4 The person who will have authority to negotiate a land exchange agreement on behalf of the Algonquins of Pikwakanagan First Nation shall be designated by Resolution.

## Additional Land

18.5 The Algonquins of Pikwakanagan First Nation may negotiate to receive other compensation, such as money or 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 the Algonquins of Pikwakanagan First Nation in fee simple or some other manner.

## Federal Consent

18.6 Before the Algonquins of Pikwakanagan 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

18.7 Once negotiations on the land exchange agreement are concluded, Council shall provide the following information to Eligible Voters at least forty-two (42) days before the vote:

- (a) a description of the Algonquins of Pikwakanagan 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

18.8 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 Algonquins of Pikwakanagan 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 the Algonquins of Pikwakanagan First Nation and with full indemnification to the Algonquins of Pikwakanagan First Nation.

## **PART 5 ACCOUNTABILITY**

### **19. Conflict of Interest or Appearance of Conflict of Interest**

#### Application of Rules

- 19.1 The conflict of interest rules in this *Land Code* apply to the following persons if they have a personal and/or material interest in the decision that will affect the land in question:
- (a) each member of the Council who is dealing with any matter before Council that is related to Algonquins of Pikwakanagan First Nation Land;
  - (b) each person who is an employee of the Algonquins of Pikwakanagan First Nation dealing with any matter that is related to Algonquins of Pikwakanagan First Nation Land;
  - (c) each member of the Appeal Board and Roster Panel; and
  - (d) each person who is a member of a board, committee or other body of the Algonquins of Pikwakanagan First Nation dealing with any matter that is related to Algonquins of Pikwakanagan First Nation Land.

#### Duty to Report and Abstain

- 19.2 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 the Council, or the board, committee or other body;
  - (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

- 19.3 A person to which this Part applies 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 a member of his or her Immediate Family.

#### Inability to Act

- 19.4 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

19.5 If Council is unable to vote on a matter, a proposed Land Law or Resolution due to a conflict of interest, Council may refer the matter 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.

## Disputes

19.6 The Appeal Board has the jurisdiction to hear and decide on any matter concerning a conflict of interest, as provided in this *Land Code*.

## Policies

19.7 For greater certainty, Council may develop laws or policies to further implement this section.

## 20. Financial Management

## Application

20.1 This section applies only to financial matters relating to the Algonquins of Pikwakanagan First Nation Land and natural resources.

## Financial Policies

20.2 Council may, in accordance with this *Land Code*, develop and adopt financial management policies, including but not limited to:

- (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 Interests or Licences in relation to Algonquins of Pikwakanagan First Nation Land and natural resources;
- (b) managing financial records and accounts;
- (c) preparing financial statements and audits;
- (d) preparing and implementing Land management 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 record keeping system that ensures confidentiality, security of records and document retention.

## Administrative Structure

20.3 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 Algonquins of Pikwakanagan 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 which will be posted on the Algonquins of Pikwakanagan First Nation web site.

## **21. Annual Report**

### Publish Annual Report

- 21.1 Council, on behalf of the Algonquins of Pikwakanagan First Nation, shall publish an annual report on Land matters.

### Contents

- 21.2 The annual report shall include:
  - (a) an annual review of Algonquins of Pikwakanagan First Nation Land and natural resources management;
  - (b) annual budget;
  - (c) a copy and explanation of the audit as it applies to Pikwakanagan First Nation Land and natural resources; and
  - (d) any other matter as determined by Council or Lands Committee.

## **22. Access to Information**

### Access

- 22.1 Any person may, during normal business hours at the main Administrative Office of the Algonquins of Pikwakanagan 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

- 22.2 Any Member may obtain a copy of the auditor's report or annual report on payment of a reasonable fee set by or under Resolution of Council.

### Access to Records

- 22.3 Any person authorized by Council may, at any reasonable time, inspect the financial records of Algonquins of Pikwakanagan First Nation related to Pikwakanagan Land.

## **PART 6 LAND AND NATURAL RESOURCES ADMINISTRATION**

## **23. Land Staff**

### Administration

- 23.1 Council may delegate administrative authority to staff to carry out functions necessary for day to day administrative operations of Land and natural resources.

## **24. Standing Committee on Lands**

### Standing Committee on Land Established

- 24.1 The Standing Committee on Lands is hereby established for the following purposes:
  - (a) assist with the development of the Land administration system;

- (b) advise the Council and its staff on matters respecting the Algonquins of Pikwakanagan First Nation Land;
- (c) recommend Land Laws, Resolutions, policies and practices respecting the Algonquins of Pikwakanagan First Nation Land to the Council;
- (d) consult with Members and Non-Members on Algonquins of Pikwakanagan First Nation Land on land issues and to make recommendations to Council on the resolution of these Land issues;
- (e) assist in the flow of information on Land issues between Members and the Council;
- (f) oversee community Meetings of Members and community approvals; and
- (g) carry out any other duties as may be assigned or delegated by Council.

#### Process to Implement Land Laws

24.2 The Standing Committee on Lands 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

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

## 25. Implementation of the Standing Committee on Lands

#### First Lands Committee

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

## PART 7 INTERESTS AND LICENCES IN LAND

### 26. Revenue from Land

#### Determination of Fees and Rent

26.1 The Standing Committee on Lands 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 Land;
- (b) the fees for services provided in relation to any Algonquins of Pikwakanagan First Nation Land; and
- (c) the fees and royalties to be paid for the taking of natural resources from Algonquins of Pikwakanagan First Nation Land.

## 27. Registration of Interests and Licences

### Enforcement of Interest and Licences

27.1 An Interest or Licence in Algonquins of Pikwakanagan 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

27.2 An instrument granting an Interest or Licence in Algonquins of Pikwakanagan 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.

### Instrument void

27.3 An instrument registered in the First Nation Lands Register Algonquins of Pikwakanagan First Nation which does not include the certificate is void.

### Duty to Deposit

27.4 A copy of the following instruments shall be deposited in the First Nation Lands Register:

- (a) any grant of an Interest or Licence in Algonquins of Pikwakanagan First Nation Land;
- (b) any transfer or assignment of an Interest or Licence in Algonquins of Pikwakanagan First Nation Land;
- (c) every Land Law
- (d) every Land use plan, subdivision plan or resource use plan; and
- (e) this *Land Code* and any amendment to this *Land Code*.

## 28. Limits on Interests and Licences

### All Dispositions in Writing

28.1 An Interest in, or License to use Algonquins of Pikwakanagan First Nation Land may only be created, granted, disposed of, assigned or transferred by a written document in accordance with this *Land Code*.

### Standards

28.2 The Council may establish mandatory standards, criteria and prescribed forms for Interests and Licences in Algonquins of Pikwakanagan First Nation Land.

### Improper Transactions Void

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

## 29. Existing Interests

### Continuation of Existing Interests and Licences

29.1 Any Interest or Licence in Algonquins of Pikwakanagan First Nation Land that existed when this *Land Code* takes effect shall, subject to this *Land Code*, continue in force in accordance with its terms and conditions.

## Voluntary Replacement of Existing Interests and Licences

29.2 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

29.3 Immediately upon the coming into force of this *Land Code*, Canada transfers to the Algonquins of Pikwakanagan First Nation all the rights and obligations of Canada as grantor in respect of existing Interests and Licences in or in relation to the Algonquins of Pikwakanagan First Nation Land.

## Unregistered Interests

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

**30. New Interests and Licences**

## Authority to Make Dispositions

30.1 Subject to 15.1, the Council may, on behalf of the Algonquins of Pikwakanagan First Nation, grant:

- (a) Interests and Licences in community Land, including certificates of possession, leases, permits, easements and rights of way; and
- (b) Licences to Members or Non-Members, to take resources from community Land, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances.

## Conditional Grant

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

## Role of the Lands Committee

30.3 The Land Committee shall advise and make recommendations to Council on the granting of Interests or Licences and may be authorized to act as a delegate of the Council under this section.

**31. Interests of Non-Members**

## Grants to Non-Members

31.1 A transfer or other disposition of all or any part of a lease or Licence in Algonquins of Pikwakanagan 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.

**32. Certificate of Possession or Member Interests**

## Application

32.1 For greater certainty, certificates of possession or Member Interests previously issued under the *Indian Act* shall continue to exist after the coming into force of this *Land Code*.

### **33. Allocation of Land to Members**

#### Policies and Procedures for Allocation of Land

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

#### Allocation

33.2 Council may, in accordance with this *Land Code*:

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

#### No Allocation of Land to Non-Members

33.3 A person who is not a Member is not entitled to be allocated Land or to hold a permanent Interest in Algonquins of Pikwakanagan First Nation Land.

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

#### Transfer of Member Interest

34.1 A Member may transfer or assign an Interest in Algonquins of Pikwakanagan First Nation Land to another Member without community approval or the consent of Council.

#### Consent of Council

34.2 There shall be no transfer or assignment of an interest in Algonquins of Pikwakanagan 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 enacted pursuant to section 38.

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

#### Protections

35.1 In accordance with the Framework Agreement, the following provisions of the *Indian Act*, as amended from time to time, continue to apply to the Algonquins of Pikwakanagan First Nation Land:

- (a) section 29; (reserve lands not subject to seizure under the legal process)
- (b) section 87; (Taxation Exemption)
- (c) sub-section 89(1); and (Not subject to charge, pledge, mortgage but leasehold interest can)
- (d) sub-section 89(2). (Conditional merchandise sale)

#### Mortgage of Allocated Land

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



## Mortgages of Leasehold Interests with Consent

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

## Time Limit

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

## Default in Mortgage

35.5 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 the Algonquins of Pikwakanagan First Nation.

## Power of Redemption

35.6 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

35.7 Council may, by Resolution, waive its right to redemption under this *Land Code* for any charge or mortgage of a leasehold Interest or Licence.

## 36. Residency and Access Rights

## Right of Residency

36.1 The following persons have a right to reside on Algonquins of Pikwakanagan First Nation Land, but must apply and be granted permission to reside in Pikwakanagan in accordance with laws or policies enacted by Council to ensure the safety and well-being of the community:

- (a) Members, who have been granted permission, and their spouses and dependent children;
- (b) Members with a registered Interest in Pikwakanagan Land;
- (c) lessees and permittees, in accordance with the provisions of the instrument granting the lease or permit; and
- (d) a person authorized in writing by the Council, Lands Committee or by an Algonquins of Pikwakanagan First Nation Law.

## Access

36.2 Any person may have access to Algonquins of Pikwakanagan First Nation Land for any social or business purpose, if:

- (a) the person does not trespass on occupied Algonquins of Pikwakanagan First Nation Land and does not interfere with any Interest in Algonquins of Pikwakanagan First Nation Land;

- (b) the person complies with all applicable laws; and
- (c) no Resolution has been enacted barring that person from entering the Algonquins of Pikwakanagan First Nation.

#### Trespass

36.3 Any person who resides on, enters or remains on Algonquins of Pikwakanagan First Nation Land other than in accordance with a residency or access right under this *Land Code* is guilty of a summary offence (refer to Section 47.2 and 47.3).

#### Civil Remedies

36.4 All civil remedies for trespass are preserved.

### **37. Transfers on Death**

#### *Indian Act* Application

37.1 Until the Algonquins of Pikwakanagan 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 Algonquins of Pikwakanagan First Nation Land.

#### Registration of Transfer

37.2 A person who receives an Interest in Pikwakanagan 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 Algonquins of Pikwakanagan First Nation Lands Register.

#### Disposition of Interest

- 37.3 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 Land be issued; or
  - (b) a Certificate of Possession 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 the Algonquins of Pikwakanagan First Nation.

### **38. Matrimonial Real Property on First Nation Law**

#### Development of Rules and Procedures

38.1 The Algonquin of Pikwakanagan First Nation Matrimonial Real Property Law passed by referendum March 30, 2014 will be incorporated under this *Land Code* in accordance with the Framework Agreement and may be amended as required, with Member consultation.

## PART 8 DISPUTE RESOLUTION

### 39. Purpose

#### Intent

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

#### Purpose

39.2 The purpose of these rules is to enable the parties to a dispute to achieve a just, speedy and fair determination of matters in dispute, considering the values which distinguish dispute resolution from litigation.

### 40. Disputes

#### Dispute Prevention

40.1 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*

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

#### Decision of Council or Lands Committee

40.3 If a Member, or a non-Member with an Interest in Algonquins of Pikwakanagan 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 Appeal Board or the Panel

#### Settle a Dispute

40.4 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

40.5 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

40.6 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

40.7 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

40.8 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

40.9 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.

**41. Processes**

## Staged Processes

41.1 The Algonquins of Pikwakanagan First Nation intends that a dispute in relation to Algonquins of Pikwakanagan First Nation Land, except as otherwise provided, progress in sequence through the following stages provided for in the Part:

- (a) facilitated discussions;
- (b) mediation;
- (c) negotiations;
- (d) appeal to the Appeal Board;
- (e) final arbitration by the Roster Panel.

## Procedure to File a Dispute

41.2 A person who wishes to resolve a dispute with another person or the Algonquins of Pikwakanagan First Nation in relation to the use or occupation of Algonquins of Pikwakanagan 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

41.3 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

41.4 A notice of termination is required when further facilitated discussion, 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

41.5 Dispute resolution is not available under this Part for disputes in relation to:

- (a) administration or distribution of an estate;
- (b) decisions relating to housing allocations;
- (c) decisions to grant or refuse to grant an Interest or Licence in Algonquins of Pikwakanagan 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

41.6 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 of Procedures

41.7 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 but not limited to:

- (a) facilitated discussions, negotiations, mediations and arbitrations;
- (b) terms of office for panelists;
- (c) remuneration of facilitators, mediators, arbitrators, expert advisors, professionals or other persons retained to assist in the resolution of disputes under this part;
- (d) disclosure and confidentiality;
- (e) imposition of time limitations for submitting a notice of dispute and referring a matter or dispute to the Panel;
- (f) implementing recommendations of the Appeal Board and Roster Panel; and
- (g) any other matter necessary to give effect to this Part 8 of this *Land Code*.

#### Code of Conduct

41.8 Council shall establish a Code of Conduct for board members, facilitators, mediators, arbitrators, expert advisors, professionals or other persons retained to assist in the resolution of disputes under this Part.

#### Waiver of Liability

41.9 By participating in this dispute resolution process, the parties agree that the board members, facilitators, mediators, arbitrators and panelists shall not be liable to the parties for any act or omission relating to 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.

## **42. Appeal Board and Roster Panel Established**

#### Appointment to Appeal Board or Roster Panel

42.1 The Appeal Board shall be composed of Members of the Algonquins of Pikwakanagan First Nation and shall be the next step in any dispute that cannot be settled between the parties through facilitated discussions or negotiations.

#### Composition

42.2 The Roster Panel shall be composed of those who have been trained and can mediate or arbitrate an issue. A list of arbitrators and administrators shall be maintained by the Lands Department. An Appeal Redress Process through a third-party organization may be utilized when feasible to maintain a list of those persons that can be chosen from. No member of the Algonquins of Pikwakanagan First Nation shall sit on a case dealing with issues involving any Member of the Algonquins of Pikwakanagan First Nation.

#### Ineligible

42.3 Notwithstanding section 19, to avoid conflict of interest, no Council member, or employee of Algonquins of Pikwakanagan First Nation or person already serving on another body, board or committee of the Algonquins of Pikwakanagan First Nation dealing with lands, shall sit on the Appeal Board or Roster Panel.

#### Representation

42.4 Council shall appoint the Appeal Board Members. A list of Mediators and Arbitrators will be maintained and form the Roster Panel by the Lands Department.

#### Rules of Roster Panel

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

### **43. Impartiality of the Appeal Board and Roster Panel**

#### Duty to Act Impartially

43.1 The Appeal Board and the Roster Panel shall act impartially and without bias or favour to any party in a dispute.

#### Offence

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

#### Rejection of Application

43.3 In addition to any other sanction, the Appeal Board or the Roster Panel may reject an application without hearing it if they believe that the applicant acted, or attempted to act, in a way to improperly influence its decision.

#### Rules of Conduct for Parties to a Dispute

43.4 The Appeal Board and the Roster Panel shall establish rules of conduct for the parties to a dispute.

### **44. Arbitration by the Roster Panel**

#### Disputes

44.1 Any matter or dispute related to Algonquins of Pikwakanagan First Nation Land that has not been resolved by facilitated discussion or negotiations, shall be submitted to the Lands Department but that such matter or dispute shall then be referred to the Appeal Board for resolution and if not settled then to the Roster Panel for resolution.

## Appeal Board and Panel Established

44.2 The Appeal Board and Roster Panel are hereby established with jurisdiction to resolve disputes in relation to Algonquins of Pikwakanagan First Nation Land. For greater certainty, disputes outlined in clause 41.5 shall not be heard by the Board or the Panel.

**45. Powers of the Appeal Board and Roster Panel**

## Powers of the Appeal Board and the Roster Panel

45.1 The Appeal Board and Roster 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 Algonquins of Pikwakanagan First Nation Land, the registration of an Interest in Algonquins of Pikwakanagan 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 Appeal Board or Roster Panel

45.2 In addition to deciding in respect to a dispute, the Appeal Board or Roster 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) make any other recommendation to Council that it deems reasonable and necessary in the circumstances.

## Interim Decisions

45.3 The Appeal Board or Roster 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 Algonquins of Pikwakanagan First Nation Land.

## Professional Services

45.4 The Appeal Board or Roster Panel may obtain the service of professionals, with permission for those who are in dispute, to assist it in fulfilling its functions, in which case it shall make best efforts to use professional services available in the community.

## Payment for Services

45.5 Those who are in dispute and requested services from a mediator, arbitrator or professional will be responsible to cover any fees or expenses incurred to hear their dispute.

## Written Decisions

45.6 Decisions of the Appeal Board or Roster Panel shall be in writing, signed by the person chairing the Board 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 thirty (30) days

after the date of the decision. The Appeal Board decision may be appealed to the Roster Panel.

#### Appeal of Decision

- 45.7 A decision of the Roster Panel is only subjected to limited rights of appeal to the Court of Ontario.

## **PART 9 OTHER MATTERS**

### **46. Liability**

#### Liability Coverage

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

#### Extent of Coverage

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

### **47. Offences**

#### Application of the Criminal Code

- 47.1 Unless some other procedure is provided for by an Algonquin of Pikwakanagan First Nation Land Law, the summary conviction procedures of Part XXVII of the Criminal Code, as amended from time to time, apply to offenses under this *Land Code* or under an Algonquins of Pikwakanagan First Nation Land Law.

#### Fines & Imprisonment

- 47.2 Any person who commits an offence under this *Land Code* or an Algonquins of Pikwakanagan 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 the Algonquins of Pikwakanagan First Nation environmental protection laws may carry penalties consistent with similar environmental protection laws in force in Canada.

#### Authority to Hear

- 47.3 The Ontario Court of Justice, or such other court of competent jurisdiction, may, upon application, have jurisdiction in respect of the enforcement of this Code and laws made by the First Nation.

### **48. Revisions**

- 48.1 A Ratification Vote is not required for revisions made to this *Land Code* that do not change the substance of the *Land Code*. The Council may, from time to time, revise the *Land Code*. Revisions may be made as a result of, but are not limited to:

- (a) an amendment of the description of Algonquins of Pikwakanagan First Nation Land subject to the *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 part thereof, that has expired or which 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 express more clearly the intention of the Algonquins of Pikwakanagan First Nation without changing the substance of the *Land Code*;
- (f) correct editing, grammatical or typographical errors.

#### **49. Commencement**

##### Preconditions

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

##### Commencement Date

49.2 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 Algonquins of Pikwakanagan First Nation Land as listed as ANNEX “G” in the Individual Agreement on First Nation Land Management between Algonquins of Pikwakanagan First Nation and Canada.

**ANNEX “G”****DESCRIPTION OF ALGONQUINS OF PIKWAKANAGAN FIRST NATION LAND**

Pikwàkanagàn Reserve

Land Description of the Extent of Reserve Lands that will be subject to the *Land Code* of the Algonquins of Pikwakanagan First Nation under the First Nations Land Management Act.

Reserve Lands within the Province of Ontario, Canada, more particularly described as:

Lots 3, 4, 5, 6, 7, 8, 9 and 10, Concession 9; Part of Lot 5, Lots 6, 7, 8, 9, 10, Part of Lot 11 and Part of Lot 12, Concession 10, Geographic Township of South Algona, County of Renfrew as shown on a Land Management Transfer Plan recorded in the Canada Lands Surveys Records as Number 102551 CLSR; the herein described land containing 747 hectares (1845 acres), more or less.