

# MISSANABIE CREE FIRST NATION



## LAND CODE FINAL DRAFT

## PREAMBLE

WHEREAS the Missanabie Cree First Nation are a recognized Band under the Indian Act, and have used, inhabited, and benefitted from Dog Lake, it's connecting waterways and lands adjacent since time immemorial;

WHEREAS We are the Omushkego of Missanabie Cree Ililiwak whose vision is to have a united and self-governing body that will determine our destiny guided by the Seven Grandfather Teachings;

WHEREAS the Missanabie Cree First Nation has inherent rights to self-determination within our homelands, as well as the responsibility to protect and manage the lands and resources of those lands;

WHEREAS the Council of Missanabie Cree First Nation has a duty to the Membership to create and abide by the administrative, economic, and social structures to facilitate the resettlement of our traditional territories by the Membership in a way that is fair and just, and in line with the morals, values, and traditions as described in the Vision Statement of the Missanabie Cree First Nation;

WHEREAS Missanabie Cree First Nation recognizes first and foremost that any resettlement initiatives must provide opportunity for community input and be implemented in a fair and consistent manner so as not to unjustly impede Members from returning to the reserve lands to exercise their Aboriginal, Treaty, Inherent, or any other rights and freedoms;

WHEREAS on February 12<sup>th</sup>, 1996, fourteen First Nations and Canada concluded a government-to-government document entitled *Framework Agreement on First Nation Land Management*, hereafter known as *FAFNLM*. On July 2021, the Missanabie Cree First Nation signed onto the *FAFNLM* with Canada;

WHEREAS the Missanabie Cree First Nation has the option of withdrawing its reserve lands from the related provisions of the *Indian Act* to govern its Lands and resources, for the use and benefit of our Membership via the *FAFNLM*;

WHEREAS Canada ratified its commitment to the *FAFNLM* with the enactment of the *First Nations Land Management Act* S.C. 1999, c.24, hereafter known as the *FNLMA*;

WHEREAS the Missanabie Cree desire to manage and govern MCFN lands and natural resources balancing the need for community development, sustainability, environmental protection, and the right of future generations to benefit from MCFN lands and natural resources [TS1]

And WHEREAS the *FAFNLM* acknowledges that Canada's special relationship with Missanabie Cree First Nation will continue and that the *Missanabie Cree First Nation Land Code* does not change Aboriginal rights, Treaty rights, Inherent rights, or any other rights and freedoms that pertain now or in the future to Missanabie Cree First Nation or its Membership; and

NOW, to resolve, THEREFORE, this Land Code is hereby enacted as the fundamental Law regarding the Lands of the Missanabie Cree First Nation

MCFN LAND CODE FINAL DRAFT

## Table of Contents

<b>PART 1</b> .....	<b>6</b>
<b>PRELIMINARY MATTERS</b> .....	<b>6</b>
<b>INTERPRETATION</b> .....	<b>9</b>
<b>PART 2</b> .....	<b>11</b>
<b>FIRST NATION LEGISLATION</b> .....	<b>11</b>
<b>PART 3</b> .....	<b>16</b>
<b>COMMUNITY MEETINGS AND APPROVALS</b> .....	<b>16</b>
<b>RATIFICATION VOTES</b> .....	<b>18</b>
<b>PART 4</b> .....	<b>20</b>
<b>PROTECTION OF LAND</b> .....	<b>20</b>
<b>EXPROPRIATION</b> .....	<b>20</b>
<b>VOLUNTARY EXCHANGE OF MISSANABIE CREE FIRST NATION LANDS</b> .....	<b>23</b>
<b>PART 5</b> .....	<b>26</b>
<b>ACCOUNTABILITY</b> .....	<b>26</b>
<b>CONFLICT OF INTEREST OR APPEARANCE OF CONFLICT OF INTEREST</b> .....	<b>26</b>
<b>FINANCIAL MANAGEMENT</b> .....	<b>27</b>
<b>PART 6</b> .....	<b>29</b>
<b>LAND AND NATURAL RESOURCES ADMINISTRATION</b> .....	<b>29</b>
<b>PART 7</b> .....	<b>32</b>
<b>INTERESTS AND LICENCES IN LAND</b> .....	<b>32</b>
<b>REVENUE FROM LAND AND NATURAL RESOURCES</b> .....	<b>32</b>
<b>REGISTRATION OF INTERESTS AND LICENCES</b> .....	<b>32</b>
<b>LIMITS ON INTERESTS AND LICENCES</b> .....	<b>33</b>
<b>NEW INTERESTS AND LICENCES</b> .....	<b>34</b>
<b>INTERESTS OF NON-MEMBERS</b> .....	<b>34</b>

<b>CERTIFICATES OF POSSESSION OR MEMBER INTERESTS.....</b>	<b>35</b>
<b>ALLOCATION OF LAND TO MEMBERS .....</b>	<b>35</b>
<b>TRANSFER AND ASSIGNMENT OF INTERESTS .....</b>	<b>35</b>
<b>LIMITS ON MORTGAGES AND SEIZURES.....</b>	<b>36</b>
<b>RESIDENCY AND ACCESS RIGHTS .....</b>	<b>37</b>
<b>TRANSFERS ON DEATH .....</b>	<b>38</b>
<b>FAMILY HOMES AND MATRIMONIAL INTERESTS LAND LAW .....</b>	<b>39</b>
<b><u>PART 8 .....</u></b>	<b><u>41</u></b>
<b>DISPUTE RESOLUTION .....</b>	<b>41</b>
<b>PURPOSE.....</b>	<b>41</b>
<b>DISPUTES .....</b>	<b>41</b>
<b>PROCESSES.....</b>	<b>43</b>
<b>ROSTER PANEL ESTABLISHED .....</b>	<b>45</b>
<b>IMPARTIALITY OF THE DISPUTE RESOLUTION PANEL .....</b>	<b>47</b>
<b>ARBITRATION BY THE DISPUTE RESOLUTION PANEL.....</b>	<b>48</b>
<b>POWERS OF THE DISPUTE RESOLUTION PANEL .....</b>	<b>48</b>
<b><u>PART 9 .....</u></b>	<b><u>50</u></b>
<b>OTHER MATTERS.....</b>	<b>50</b>
<b>LIABILITY.....</b>	<b>50</b>
<b>OFFENCES.....</b>	<b>50</b>
<b>REVISIONS TO LAND CODE .....</b>	<b>51</b>
<b>COMMENCEMENT.....</b>	<b>51</b>
<b><u>APPENDIX "A".....</u></b>	<b><u>52</u></b>
<b><u>DESCRIPTION OF THE MISSANABIE CREE FIRST NATION LANDS .....</u></b>	<b><u>52</u></b>

# PART 1

## PRELIMINARY MATTERS

### *Title*

- I. The title of this enactment is the Missanabie Cree First Nation Land Code.
- II. The principles set out in this Part and in the Preamble provide the basis for, as well as the visions and foundations that we will use as a nation to guide the social, economic, and community development of the Missanabie Cree First Nation.
- III. Any words or terms used in this Land Code which are defined in the FAFNLM shall have the same meaning as in the FAFNLM unless the context requires otherwise.

### *Definitions*

The following definitions apply in this Land Code:

“AGM” means a meeting under PART 3 of this Land Code which members are invited to attend;

“Allocation” means the process used for the distribution or provision of the land as a right of occupancy or lease to an individual or a group of persons or legal persons or institutions and organizations.

“Bear Fax” means the monthly newsletter published by MCFN administration, as published by MCFN in print, and on the web via the band website;

“Canada” and “The Crown” mean His Majesty, The King in Right of Canada;

“Civil Remedies” means orders given by a Federal Court of Law to deal with disputes;

“Common Law Relationship” means the relationship between two (2) persons who are cohabitating together in a conjugal relationship;

“Council” means the Chief or Council of Missanabie Cree First Nation established as per the First Nation’s electoral code, or any successor elected leadership of Missanabie Cree First Nation;

“Dispute Resolution Panel” or “Panel” means that is established under PART 8 for the purpose of resolving disputes;

“Eligible Voter” means, for the purpose of voting in respect of Land matters under this Land Code, a registered Member who is at least eighteen (18) years of age on or before the day of the vote;

“Extended Family”, in respect of a person, means the person's grandparents, uncle, aunt, first 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 maintained by Indigenous Services Canada or its successor under the Framework Agreement;

“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 Missanabie Cree First Nation on July 2021;

“Heritage Site” means any geographic point or area identified by Missanabie Cree First Nation from which the community derives a sense of identity whether from shared historical beliefs, behaviours, or practices. This includes but is not limited to, archeological sites such as historical villages, churches and pictographs, archeological potential areas, cultural heritage landscapes defined by previous activity including old fur trade posts, trails, portages and railways, birth sites, burial sites, cemeteries, and ceremonial sites;

“Immediate Relatives”, in respect of a person, means the person's spouse, child, sister, brother, and parents;

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

“Instrument” means a legal document in writing, duly signed, and witnessed, which purports to affect or to create, grant, assign, transfer, or encumber an interest in Missanabie Cree First Nation Lands;

“Interest” in relation to Missanabie Cree First Nation Land means any Interest, right or estate of any nature in or to that Land, including a member allotment, certificate of entitlement, lease, easement, right of way, servitude, or profit a prendre, but does not include title to that land;

“Land” or “Missanabie Cree First Nation Land” means any portion of the Missanabie Cree First Nation reserve lands that is subject to this Land Code;

“Land Code” means this Missanabie Cree First Nation Land Code, and sets out the basic provisions regarding the exercise of the Missanabie Cree First Nation's rights and powers over its Land;

“Land Law” means a law, including, but not limited to, policies, regulations, standards, restricted to Missanabie Cree First Nation Lands, enacted in accordance with this Land Code;

“Land Use Plan” means a plan detailing the different types of Land usages such as zoning and Significant Sites within the Missanabie Cree First Nations Lands;

“License” in relations to Missanabie Cree First Nation Land, means the right of use or occupation of that land, other than an Interest in that Land;

“Member”, “Membership”, or any variant thereof, means an individual or all persons whose name appears on or is entitled to appear on the Missanabie Cree First Nation Membership List as the context warrants;

“Missanabie Cree First Nation” and “MCFN” means the Missanabie Cree First Nation and its members;

"Mortgage" means a charge on an interest in MCFN Lands, in which a person with a registered Certificate of Possession (CP), lease or license (the "mortgagor") transfers their land interest to another person (the "mortgagee"), as security for a debt on conditions set out in a written mortgage agreement including a condition that if the debt is repaid by a specific time the transfer becomes void and the land interest reverts to the mortgagor;

“Neutral evaluation” means a process in which the parties to a dispute present their claims or defenses and describe the principal evidence on which their claims or defenses are based to a neutral third party who then shares impressions about the strengths and weaknesses of each matter;

“Relief” means the redress of a hardship or grievance;

“Resolution” means a Band Council Resolution (BCR) 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 the use of the water for that land;

“Roster Panel” means a pool of people to draw upon for the establishment of the Dispute Resolution Panel;



“Significant or Heritage Site” means a site set aside for protection that has been identified as a sacred site, a culturally significant site, a historical site, an environmental site, and/or sensitive nature site;

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

“Verifier” means an independent third party appointed under the Framework Agreement as approved by the Council, to oversee and ensure adherence to policies and procedures throughout the development, ratification, and certification of the Missanabie Cree First Nation Land Code

## **Interpretation**

1.01 In this Land Code:

- a) The words “shall” and “should” 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;
- b) 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”;
- c) Titles and headings have been inserted into the Land Code for convenience of reference only and are not interpretive aids;
- d) Unless otherwise clear from the context, whenever the singular is used, it will include the plural, and the plural likewise includes the singular;
- e) All references to a time period of days mean consecutive days and not business days;
- f) Where the time limited for 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;
- g) Where the time limited for the doing of an act in the Missanabie Cree 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;

- h) 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;
  - i) The principles set out in the Preamble to this Land Code may be used to interpret this Land Code.
- 1.02 If there is any inconsistency or conflict between this Land Code and any other enactment of Missanabie Cree First Nation, including a by-law enacted under section 81 (Bylaws) of the Indian Act, this Land Code prevails to the extent of the inconsistency or conflict.
- 1.03 If there is any inconsistency or conflict between this Land Code and the Framework Agreement, the Framework Agreement will prevail to the extent of the inconsistency or conflict.
- 1.04 This Land Code does not change:
- a) the by-law powers of Council pursuant to the Indian Act;
  - b) any Aboriginal, Treaty, Inherent, or any other rights and freedoms that pertain now or in the future to the Missanabie Cree First Nation and its Members or;
  - c) the fiduciary obligation of Canada to Missanabie Cree First Nation and its members;
  - d) the fiduciary obligation of the Council to the membership.
- 1.05 The structures, organizations, and procedures established by or under this Land Code shall be interpreted in accordance with the culture, traditions, and customs of Missanabie Cree First Nation unless otherwise provided.
- 1.06 This Land Code shall be interpreted in a fair, large, and liberal manner.
- 1.07 A reference to “Land” in this land code includes all the Interests and rights, as well as the resources that belong to that Land to the extent these are under the jurisdiction of Canada and are part of that Land and includes:
- a) The water, beds underlying water, Riparian Rights, and renewable, and non-renewable natural resources in and of that Land to the extent that these are under the jurisdiction of Canada; and;
  - b) All the Interests and Licences granted by Canada listed in the Individual Agreement and;

- c) All the Interests and Licences granted by Missanabie Cree First Nation after this Land Code comes into effect.
- 1.08 Only Land that has reserve status is eligible to be governed under this Land Code.

### ***Authority to Govern***

- 1.09 By enacting this Land Code the Missanabie Cree First Nation is giving effect to its Aboriginal title to that portion of its territories comprising First Nation Land.
- 1.10 The authority of the First Nation to govern its lands and resources flows from its Aboriginal title and Inherent rights to self-government.

### ***Purpose***

- 1.11 The purpose of this Land Code is to establish principles and administrative structures that will apply to MCFN Lands and by which MCFN will exercise authority over those lands.

### ***Description of MCFN lands***

- 1.12 The MCFN Lands that are subject to this code are as follows:
- a) Missanabie Cree First Nation, Indian Land Registry Number 10099, District of Algoma, and;
  - b) Any land or interest acquired by the First Nation after this Land Code takes effect, whether by land claim, purchase, or other processes;
  - c) Any lands owned jointly by the First Nation and another First Nation when both First Nations agree upon a joint management plan for those lands;
- 1.13 When the relevant conditions in section 1.12, subsections (b) or (c), are met, Council shall call a Meeting under section 2 and, after receiving input, may by enacting a Law declare the land or interest to be subject to this Land Code.

## **PART 2**

### **FIRST NATION LEGISLATION**

#### ***Lawmaking Authority***

- 2.01 Council may, by way of a BCR, make laws respecting:

- a) The development, conservation, protection, management, use and possession of MCFN Land;
- b) Interests and licences in relation to MCFN Lands;
- c) Any matter which is necessary or ancillary to Laws respecting MCFN Land;
- d) Regulations in respect of zoning;
- e) Creation, regulation and prohibition of interests and licences in relation to MCFN Land;
- f) Environmental protections and assessment;
- g) Provision of local services in relation to MCFN Lands and the imposition of fees associated with those services;
- h) Enforcement of MCFN laws;
- i) Provision of services for the resolution, outside the courts, of disputes in relation to MCFN Land.

2.02 Any laws enacted as mentioned in section 2.01 shall;

- a) Be for the benefit of the Membership or Lands as a whole;
- b) Not act as an impedance to the Membership in the exercise of Aboriginal, inherent, treaty, or any other rights enjoyed by all members.

2.03 Any law made by Council shall not in any way restrict, limit, prevent, misdirect, or otherwise impede in any manner and at any time, any Member who so chooses to exercise their Aboriginal, Inherent, Treaty, or any other rights on the Lands included in this Land Code unless the impedance of said rights of the individual Member is in the interest of and for the protection of another individual Member, their rights or their interests on the Lands, or the Membership or Lands as a whole.

### ***Lawmaking Procedure and Community Approval***

2.04 A proposed law may be introduced by:

- a) The Chief; or
- b) A Councillor; or
- c) A representative of the Lands and Resources Department authority; or

- d) A representative of the Lands and Resources Department authority, on behalf of a Member; or
  - e) Any registered Member of Missanabie Cree First Nation.
- 2.05 Before a proposed law can be enacted by Council, the proposed law shall be:
- a) Tabled at a meeting in writing, open to the Membership, to be held during the MCFN AGM, or at a special meeting that is open to the Membership, to be held when it is practical;
  - b) Deposited with the Chair of the Lands Authority at least 21 days before the law is to be enacted;
  - c) Posted in all offices of MCFN at least 21 days before the law is to be enacted, and for a period of at least 21 days if said law is enacted.
- 2.06 Council may propose and enact a law at an emergency meeting of Council, disregarding section 2.05, only if Council is of the opinion that the law is needed urgently to protect MCFN Lands and its Members or to respond to an urgent or emergent situation. Said law shall require the acknowledgement of the Lands Department to be considered valid and is not valid or enforceable until that time.
- 2.07 The Chair of Lands Authority shall, upon receipt of said law proposed under the provisions of section 2.06, provide immediate acknowledgement by any means of communication available, but should be ready and willing to provide a record of said communication. Acknowledgement of the proposed law should not be withheld for any reason when doing so could potentially endanger the lives or livelihoods of the Membership on MCFN Lands, or the Lands themselves.
- 2.08 Any law enacted under section 2.06 shall last for a duration of no more than 28 days, after which Council shall evaluate the situation that gave rise to the enactment of the law. Should Council be of the opinion that the situation will continue, then they may re-enact the law following the procedures set forth in 2.06.
- 2.09 For greater certainty, the spirit of section 2.06 is that it is to be used only in emergency or dire circumstances, including, but not limited to:
- a) Natural disasters such as floods, wild and forest fires, earthquakes, ice storms, or any other disaster that results in a severe upheaval of the environment and is of a natural cause or;

- b) Industrial disasters, such as chemical spills, train derailments, mine collapse or groundwater contamination as a result of mining or any other industrial activities, or any other disaster that is of an industrial source or;
  - c) Health and Social disasters, such as pervasive addictions affecting the basic functioning of a community, epidemics, and pandemics of communicable and non-communicable diseases, or;
  - d) Technological disasters, such as a substantial loss of communications networks, or large-scale, long-term power outages resulting from a failure in the power grid or;
  - e) Any matter pertaining to a disaster as described in 2.09 that is not on MCFN Lands but may pose a threat to MCFN Lands in the immediate future.
- 2.10 Any laws tabled at a meeting must (must have a method) to allow for community input and response, except in the case of laws enacted under section 2.06.
- 2.11 Excepting laws enacted under section 2.06, once a discussion has concluded:
- a) Those eligible voting Members of the community that are in attendance whether in person or virtual vote by One of the methods provided for under section 3.10 of the Land Code;
- 2.12 If both Council and the Community give their assent to the law, then Council shall immediately enact the law, under section 2.01. If either Council or the Community rejects the law, then Council will either defer the law for further discussion at a later time or refer the law back to the person who proposed said law for amendment and proposal at the next meeting convened under section 2.05(a), or section 2.06 should circumstance warrant.
- 2.13 The Band Administrator and the Chair of the Lands Authority shall at all times keep a register of laws that have been deferred for later discussion under section and should make it available upon request to any Member who requests it.
- 2.14 The original copy of any Law or Resolution concerning First Nation Land shall be signed by a quorum of Council present at the meeting at which it was enacted.

### ***Publication of Laws***

- 2.15 The Band Administrator shall keep a record at the Band Office of all laws enacted, whether current or repealed.
- 2.16 The complete text of any and all new laws enacted shall be made into a hard-copy format.
- 2.17 This record shall be accessible online in an area that requires Member's to log on such as the official MCFN website.
- 2.18 Within 14 days of the request, any Member who desires a hard copy will be provided one granted a written request was made to the Band Administrator;
- 2.19 The complete text of any and all new laws enacted shall appear in the next Bear Fax following the date of the enactment;
- 2.20 The complete text of any and all new laws enacted shall be posted online, in a publicly accessible area provided by Missanabie Cree First Nation

### ***Enforceability of Land laws***

- 2.21 To enforce its Land Code and its Land laws, Missanabie Cree First Nation shall have the power to:
  - a) determine 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 and provincial law, including inspections, searches, seizures, and compulsory sampling, testing and the production of information; and
  - d) provide for the collection of non-tax debts, fees or charges owed to Missanabie Cree First Nation using collection remedies made under Missanabie Cree First Nation.

### ***Agreement for Recovery of Fines***

- 2.22 Missanabie Cree First Nation may enter into agreements with governments or other agencies to collect any fines, debts, fees, or other penalties imposed by its Land Code or First Nation laws.

### ***Prosecuting Offences***

- 2.23 For the purpose of prosecuting offences, Missanabie Cree First Nation may:

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

## PART 3

### COMMUNITY MEETINGS AND APPROVALS

#### *Participation of Members*

3.01 Every Community Member over the age of 18 is permitted to participate in the meeting of Members and all participants must abide by the rules of order as identified.

#### *Participation of Eligible Voters*

3.02 Every Member over the age of 18 is entitled to participate in community approvals.

#### *Meeting of Members and Community Approval Procedures*

- 3.03 Council shall give written notice of the meeting of Members and any matter requiring community approval at said meeting, and the notice shall include:
- 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(s) that requires community approval; and
  - d) Other information and material that Council considers appropriate.
- 3.04 The notice shall be given to the Members before the meeting or vote, by:
- a) Posting the notice in public places;
  - b) Providing the notice to Members and taking reasonable steps to locate and inform Members who reside on and off-reserve;
  - c) Posting the notice online; and
  - d) Additional methods Council considers appropriate.



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

### ***Informed Decision***

3.06 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.

### ***Community Meetings***

3.07 Council shall call a meeting prior to:

- a) enacting a Land law respecting a community plan or subdivision plan;
- b) making a decision concerning any development affecting a heritage site or an environmentally sensitive property;
- c) enacting a Land law respecting environmental assessment and protection;
- d) enacting a Land law respecting the transfer and assignment of rights and Interests in Missanabie Cree First Nation Land;
- e) enacting a Land law respecting family homes and matrimonial interests on Missanabie Cree First Nation Land;
- f) enacting a Land law respecting the rate and criteria for the payment of fees or rent for Missanabie Cree 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.

### ***Community Approval***

3.08 Community approval shall be obtained for the following:

- a) any Master Land Use Plan;
- b) any new grant or disposition of an Interest or License in any Missanabie Cree First Nation Land exceeding a term of thirty-five (35) years;
- c) any renewal of a grant or disposition of an Interest or License in any Missanabie Cree First Nation Land that extends the original term beyond thirty-five (35) years;

- d) any grant or disposition of any non-renewable natural resources on any Missanabie Cree First Nation Land exceeding a term of five (5) years;
- e) any deletion of a heritage site;
- f) any voluntary exchange of Missanabie Cree 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.

### ***Minimum Requirements for Approvals***

- 3.09 At a meeting of members, a percentage greater than fifty percent plus one (50%+1) of participating Eligible Voters must approve the matter in order to obtain community approval.

### ***Utility Permits Excepted***

- 3.10 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***

- 3.11 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.

## **RATIFICATION VOTES**

### ***Community Approval by Ratification vote***

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

### ***Exceptions***

- 3.13 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 9.06; and
- c) an amendment to, or renewal of, the Individual Agreement.

### ***Ratification Process***

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

### ***Approval by Majority***

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

### ***Increased Threshold***

3.16 Notwithstanding, 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.

### ***Policies Consultation, Approval and Ratification***

3.17 For greater certainty, Council may make Land laws or policies respecting:

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

# PART 4

## PROTECTION OF LAND

### *Environment and Cultural Sacred Heritage Resources Interim use of Impact Assessment Act*

4.01 Until Council enacts environmental assessment and protection laws, it will conduct an assessment process in respect of every project on Missanabie Cree First Nation Land that requires an assessment under the *Impact Assessment Act*

### *Prohibited Activities*

- 4.02 Subject to any Law with more specific provisions, all of the following are prohibited on Missanabie Cree First Nation Land:
- a) dumping of any waste, garbage, debris, or similar material anywhere outside of a garbage can or authorized bin or garbage disposal area;
  - b) dumping, spilling, discharging, releasing, burning, or depositing any substance, liquid or gas, that is noxious, hazardous, polluting, deleterious or harmful to human, animal, fish, bird health or the environment; and
  - c) any other activities resulting in contamination of Missanabie Cree First Nation Lands or contaminants affecting the Natural Resources.

4.03 Unsightly Premises

As soon as possible after the Land Code takes effect, Council or any other authorized delegated authority, will enact a Law or Regulatory Instrument in regard to unsightly premises or premises that may create a health risk to Members.

## Expropriation

### *Acquisition by Mutual Agreement*

4.04 The Missanabie Cree First Nation may expropriate an Interest or License in Missanabie Cree First Nation Land, provided that it has made a good faith effort to acquire, by mutual agreement, the Interest or License.

### ***Rights and Interests that may be Expropriated***

4.05 An Interest or License in Missanabie Cree First Nation Land, or in any building or other structure on that Land, may only be expropriated by Missanabie Cree 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***

4.06 A community expropriation shall only be made for necessary community works or other Missanabie Cree First Nation purposes, including, but not limited to, a fire hall, sewage or water treatment facility, community center, public works, utilities, roads, schools, daycare facility, hospitals, health-care facility, and retirement homes.

### ***Expropriation Land Laws***

4.07 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 License;
- b) transfer of the Interest or License;
- c) notice of expropriation and service of the notice of expropriation;
- d) entitlement to compensation;
- e) determination of the amount of compensation; and
- f) the method of payment of compensation.

### ***Public Report***

4.08 Before Missanabie Cree First Nation expropriates an Interest or License, it shall make a public report on the reasons justifying the expropriation.

### ***Member Notification***

4.09 In the case of an expropriation of a Member's Interest in Missanabie Cree First Nation Land, the affected Member or Members shall receive notification of the expropriation 30 days prior to the release of the public report.

### ***Rights that may not be Expropriated***

- 4.10 In accordance with clause 17.6 of the *Framework Agreement*, an Interest of Canada, or the province in Missanabie Cree First Nation Land is not subject to expropriation by the Missanabie Cree First Nation.

### ***Compensation for Rights and Interests***

- 4.11 Missanabie Cree 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 License to be expropriated; and
  - b) Pay fair and reasonable compensation to the holders of the Interest or License being expropriated.

### ***Compensation Calculations***

- 4.12 In accordance with clause 17.4 the *Framework Agreement*, Missanabie Cree 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***

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

### ***Neutral Evaluation to Resolve Disputes***

- 4.14 The resolution of disputes concerning the right of the Missanabie Cree 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***

- 4.15 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 License to compensation; and

- b) disputes concerning the amount of the compensation.

### ***Sacred, Cultural and Heritage Sites***

#### **4.16 Community approval of development**

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

#### **4.17 Land use plan**

No amendment may be made to a land use plan to destroy or remove a sacred, cultural or heritage site, unless the amendment receives community approval by a ratification vote.

## **Voluntary Exchange of Missanabie Cree First Nation Lands**

### ***Conditions for a Land Exchange***

- 4.18 The Missanabie Cree First Nation may agree with another party to exchange a parcel of Missanabie Cree First Nation Land for a parcel of land from that other party in accordance with this *Land Code* and the *Framework Agreement*.

### ***No Effect***

- 4.19 A land exchange is of no legal 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***

- 4.20 No land exchange may occur unless the land to be received in the exchange meets either (a) or (b) but must include (c):
  - a) it shall be equal to or greater than the area of the Missanabie Cree First Nation Land to be exchanged;
  - b) it shall be at least comparable to the appraised or perceived value of the Missanabie Cree First Nation Land; and
  - c) it shall become a reserve and Missanabie Cree First Nation Land and be subject to this *Land Code*.

### ***Oversight of Land Exchange***

- 4.21 The Land Management Advisory Committee and the Lands Department will oversee any land exchange process.

### ***Negotiators***

- 4.22 The person(s) who will have authority to negotiate a land exchange agreement on behalf of the Missanabie Cree First Nation shall be designated by resolution.

### ***Additional Land***

- 4.23 The Missanabie Cree 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 the Missanabie Cree First Nation in fee simple or some other manner.

### ***Federal Consent***

- 4.24 Before the Missanabie Cree 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***

- 4.25 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 Missanabie Cree 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***

- 4.26 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 Missanabie Cree First Nation Land being exchanged, in accordance with the exchange agreement;
  - c) 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 Missanabie Cree First Nation, and with full indemnification to Missanabie Cree First Nation.

### ***Appointment of Negotiator for Land Exchange***

- 4.27 Council will, after considering the recommendation of the Land Management Advisory Committee and Lands Department, designate, by Resolution, a person(s) or entity with authority to negotiate the terms of a Land Exchange Agreement on behalf of Missanabie Cree First Nation.

### ***Negotiation of Land Exchange***

- 4.28 Missanabie Cree First Nation may negotiate to receive other compensation, such as money or additional parcels of lands, in addition to the parcel referred to in section 4.18 (voluntary exchange of land) which is intended to become reserve lands. Such other parcels of land may be held by Missanabie Cree First Nation in fee simple or some other manner.

### ***No Effect***

- 4.29 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*.

# PART 5

## ACCOUNTABILITY

### Conflict of Interest or Appearance of Conflict of Interest

#### *Application of Rules*

- 5.01 The conflict-of-interest rules in this *Land Code* apply to the following persons:
- a) each member of Council who is dealing with any matter before Council that is related to Missanabie Cree First Nation Land;
  - b) each person who is an employee of the Missanabie Cree First Nation dealing with any matter that is related to Missanabie Cree 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 the Missanabie Cree First Nation dealing with any matter that is related to Missanabie Cree First Nation Land.

#### *Duty to Report and Abstain*

- 5.02 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*

- 5.03 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***

5.04 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***

5.05 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 the dispute resolution process (Part 8).

### ***Specific Conflict Situations***

5.06 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 Missanabie Cree First Nation Land. Council or any other elected board, committee or body is exempt from this rule.

### ***Disputes***

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

### ***Other Laws***

5.08 For greater certainty, Council may develop a policy or enact laws to further implement this section.

## **Financial Management**

### ***Application***

5.09 This section applies only to financial matters relating to Missanabie Cree First Nation Land and natural resources.

### ***Financial Policies***

5.10 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 License in relation to Missanabie Cree 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***

5.11 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 Missanabie Cree 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 for Members.

#### ***Publish Annual Report***

5.12 Council, on behalf of the Missanabie Cree First Nation, shall publish an annual report on Land matters.

#### ***Contents of Annual Report***

5.13 The annual report shall include:

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

#### ***Access to Information***

- 5.14 Any person may, during normal business hours at the main administrative office of the Missanabie Cree 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***

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

#### ***Access to Records***

- 5.16 Any person authorized by Council may inspect the financial records of Missanabie Cree First Nation related to Missanabie Cree First Nation Land.

## **PART 6**

### **LAND AND NATURAL RESOURCES ADMINISTRATION**

#### ***Lands Staff Administration***

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

#### ***Lands Committee Established***

- 6.02 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 Missanabie Cree First Nation Land;
- c) recommend Land laws, resolutions, policies, and practices respecting Missanabie Cree First Nation Land to Council;
- d) consult with Members and non-Members on Missanabie Cree 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***

6.03 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***

6.04 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.

#### ***First Lands Committee***

6.05 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***

6.06 As soon as possible after the coming into force of this *Land Code*, Council, in consultation with the Lands Committee, shall develop a Terms of Reference including but not limited to:

Selection, or appointment of Eligible Voters to serve on the Lands Committee, and dealing with such matters as:

- a) number of Members,
- b) composition, eligibility,

- c) Chair and Deputy Chair,
- d) functions of the Chair,
- e) term of office,
- f) remuneration,
- g) conditions of service,
- h) termination; and
- i) vacancies arising during term and such other matters as Council deems appropriate to the operation of the Lands Committee.

MCFN LAND CODE FINAL DRAFT

# PART 7

## INTERESTS AND LICENCES IN LAND

### Revenue from Land and Natural Resources

#### *Determination of Fees and Rent*

- 7.01 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 Missanabie Cree First Nation Land;
  - b) the fees for services provided in relation to any Missanabie Cree First Nation Land; and
  - c) the fees and royalties to be paid for the taking of natural resources from Missanabie Cree First Nation Land.

### Registration of Interests and Licences

#### *Enforcement of Interest and Licences*

- 7.02 An Interest or License in Missanabie Cree 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*

- 7.03 An instrument granting an Interest or License in Missanabie Cree 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*

- 7.04 A copy of the following instruments shall be deposited in the First Nation Lands Register:
- a) any grant of an Interest or License in Missanabie Cree First Nation Land;
  - b) any transfer or assignment of an Interest or License in Missanabie Cree 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*.

## **Limits on Interests and Licences**

### ***All Dispositions in Writing***

- 7.05 An Interest or License in Missanabie Cree 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***

- 7.06 Council may establish mandatory standards, criteria and forms for Interests and Licences in Missanabie Cree First Nation Land.

### ***Non-conforming Transactions Void***

- 7.07 After the date that this Land Code takes effect, any deed, lease, contract, instrument, document, or agreement of any kind, whether written or oral, by which Missanabie Cree First Nation, a Member or any other person purports to grant, dispose of, transfer, or assign an Interest or License in Missanabie Cree First Nation Land is void unless it complies with this Land Code.

### ***Continuation of Existing Interests and Licences***

- 7.08 Any Interest or License in Missanabie Cree 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 Amendment or Replacement of Existing Interests and Licences***

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

### ***Replacing the Role of the Minister***

- 7.10 Immediately upon the coming into force of this *Land Code*, Canada transfers to Missanabie Cree First Nation all the rights and obligations of Canada as grantor

in respect of existing Interests and Licences in or in relation to Missanabie Cree First Nation Land.

### ***Unregistered Interests***

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

## **New Interests and Licences**

### ***Authority to make Dispositions***

7.12 Council may, on behalf of Missanabie Cree First Nation, subject to 3.08, grant:

- a) interests and Licences in Missanabie Cree First Nation Land, including Certificate of Land Title, Member allocations, leases, permits, easements, and rights-of-way; and
- b) licences to take natural resources from Missanabie Cree First Nation Land, including cutting timber or removing minerals, stone, sand, gravel, clay, soil, or other substances.

### ***Conditional Grant***

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

### ***Role of the Lands Committee***

7.14 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.

## **Interests of Non-Members**

### ***Grants to Non-Members***

7.15 A transfer or other disposition of all or any part of an Interest or License in Missanabie Cree 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.

## **Certificates of Possession or Member Interests**

### ***Application***

7.16 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*.

## **Allocation of Land to Members**

### ***Policies and Procedures for Allocation of Land***

7.17 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***

7.18 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***

7.19 A person who is not a Member is not entitled to be allocated Land or to hold a permanent Interest in Missanabie Cree First Nation Land.

## **Transfer and Assignment of Interests**

### ***Transfer of Member Interest***

7.20 A Member may transfer or assign an Interest in Missanabie Cree First Nation Land to another Member without community approval or the consent of Council.

### ***Consent of Council***

7.21 There shall be no transfer or assignment of an interest in Missanabie Cree First Nation Land without the written consent of Council, except for:

- a) transfers between Members;
- b) transfers that occur by operation of law, including transfers of estate by testamentary disposition; and

- c) transfers in accordance with any family homes and matrimonial interests Land laws.

## **Limits on Mortgages and Seizures**

### ***Protections***

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

- a) section 29;
- b) section 87;
- c) sub-section 89(1); and
- d) sub-section 89(2).

### ***Mortgage of Allocated Land***

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

### ***Mortgages of leasehold Interests with Consent***

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

### ***Time Limit***

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

### ***Default in Mortgage***

7.26 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 Missanabie Cree First Nation.

### ***Power of Redemption***

7.27 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***

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

## **Residency and Access Rights**

### ***Right of Residence***

- 7.29 The following persons have a right to reside on Missanabie Cree First Nation Land:
- a) Missanabie Cree First Nation Citizens whose names appear on the Citizenship Register of MCFN and their Spouses and children;
  - b) Members with a registered Interest in Missanabie Cree First Nation Land;
  - c) any invitee of a Member referred to in clause (a) or (b);
  - d) lessees and permittees, in accordance with the provisions of the granting instrument; and
  - e) a person authorized in writing by Council, Lands Committee or by a Land law.

### ***Right of Access***

- 7.30 The following persons have a right of access to Missanabie Cree First Nation Land:
- a) a lessee and their invitees;
  - b) a person granted a right of access under a permit;
  - c) Missanabie Cree First Nation Citizens whose names appear on the Citizenship Register of MCFN and their Spouses and children;

- d) a person who is authorized by a government body or any other public body, established by or under an enactment of the Missanabie Cree First Nation, Parliament, or the province to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey provided that the person received written authorization from Council; or
- e) a person authorized in writing by Council or the Lands Committee or by a Land law.

### ***Public Access***

- 7.31 Any person may have access to Missanabie Cree 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***

- 7.32 Any person may have the right of access to Missanabie Cree First Nation public roads, subject to this *Land Code* and Land laws.

### ***Trespass***

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

### ***Civil Remedies***

- 7.34 All civil remedies for trespass are preserved.

## **Transfers on Death**

### ***Indian Act Application***

- 7.35 Subject to any Land laws on family homes and matrimonial interests, until Missanabie Cree 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 Missanabie Cree First Nation Land.

## Registration of Transfer

- 7.36 A person who receives an Interest in Missanabie Cree First Nation Land by testamentary disposition or succession in accordance with a written decision of the Minister, or their designate, pursuant to the *Indian Act*, is entitled to have that Interest registered in the First Nation Lands Register.

## *Disposition of Interest*

- 7.37 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 their delegate may make application to Council requesting that an instrument evidencing lawful possession or occupation of Missanabie Cree 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 their delegate, if the beneficiary or purchaser is a Member of the Missanabie Cree First Nation.

## **Family Homes and Matrimonial Interests Land Law**

### *Development of Rules and Procedures*

- 7.38 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 Missanabie Cree First Nation Land;
  - b) the division of the value of any Interests held by Spouses in or to structures and lands on Missanabie Cree 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*

- 7.39 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***

- 7.40 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 Missanabie Cree 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***

- 7.41 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.

MCFN LAND CODE FINAL DRAFT



# PART 8

## DISPUTE RESOLUTION

### Purpose

#### *Intent*

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

#### *Purpose*

8.02 The purpose of these rules is to enable the parties to a dispute to achieve a just, expeditious and inexpensive determination of matter in dispute, considering the values which distinguish dispute resolution from litigation.

### Disputes

#### *Dispute Prevention*

8.03 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*

8.04 Disputes that arose before the *Land Code* takes effect, could also be referred to this part.

#### *Decision of Council or Lands Committee*

8.05 If a Member, or a non-Member with an Interest or License in Missanabie Cree 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***

8.06 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***

8.07 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***

8.08 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***

8.09 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***

8.10 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***

8.11 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.

## **Processes**

### ***Staged Processes***

8.12 Missanabie Cree First Nation intends that a dispute in relation to Missanabie Cree First Nation Land, except as otherwise provided, may progress through the following stages:

- a) facilitated discussions;
- b) negotiation;
- c) mediation; and
- d) final arbitration by the Dispute Resolution Panel.

### ***Procedure to File a Dispute***

8.13 A person who wishes to resolve a dispute with another person or Missanabie Cree First Nation in relation to the use or occupation of Missanabie Cree 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***

8.14 Third party 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***

8.15 A notice of termination is required when further facilitated discussions, negotiations or mediation shall not resolve the dispute. The dispute may

progress to the next stage of the dispute resolution process or to final arbitration.

### ***Dispute Resolution not Available***

- 8.16 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 License in Missanabie Cree 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***

- 8.17 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***

- 8.18 Council may prescribe such laws, resolutions, rules, policies, procedures, forms, and reasonable fees not inconsistent with this *Land Code*, as may be necessary to give effect to this part including:
- a) facilitated discussions, negotiations, mediations, and arbitrations;
  - b) terms of office for panelists;
  - c) remuneration of facilitators, mediators, arbitrators, panelists, expert advisors, professionals, or other persons retained to assist in the resolution of disputes;
  - d) code of conduct for facilitators, mediators, arbitrators, panelists, expert advisors, professionals, or other persons retained to assist in the resolution of disputes;
  - e) disclosure and confidentiality;

- f) imposition of time limitations for submitting a notice of dispute and referring a matter or, dispute to the Panel;
- g) implementing recommendations of the Panel; and
- h) any other matter necessary to give effect to this part.

### ***Waiver of Liability***

8.19 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.

### **Roster Panel Established**

#### ***Appointment to Roster Panel***

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

#### ***Purpose of the Roster Panel***

8.21 The Roster Panel shall be used to facilitate and mitigate disputes between interested parties covered in this Land Code.

#### ***Ineligible***

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

#### ***Eligibility***

8.23 To be eligible for the Roster Panel, a person shall:

- (a) Be a Member of a First Nation covered under Nishnawbe Aski Nation.
- (b) Not hold elected office in the capacity of a Chief or Councilor or an employee of Missanabie Cree First Nation or subsidiaries
- (c) Not have been convicted of an offence by way of indictment within the past ten (10) years;

- (d) Not be convicted of a corrupt practice in connection with an election, including the acceptance of a bribe, dishonesty, or willfully wrongful misconduct; and
- (e) Be a minimum of eighteen (18) years of age.

- 8.24 The individual will submit a letter of intent which identifies the following capabilities and skillset including letter(s) of recommendation;
- a) demonstrated knowledge and understanding of dispute resolution and relationship building;
  - b) ability to think strategically and wholistically;
  - c) knowledge in the customs, tradition, and knowledge of the language of the Omushkego;
  - d) possess excellent judgment, analytical, and communication skills;
  - e) ability to remain impartial, empathetic, work collaboratively, and foster discussion;
  - f) listed training or experience in such fields as human resources, law, or management would be an asset;
  - g) proven experience working as a member of a committee or board;
  - h) willingness to participate in training and to travel, as required;

### ***Representation***

- 8.25 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***

- 8.26 The Roster Panel may establish rules for the procedure at its hearings and generally for the conduct of its affairs; in the absence of established rules, the proceedings will default to Roberts Rules of Order.

CEASING and RESIGNING TO BE A BOARD MEMBER pg. 42

### ***Ceasing to be on the Roster Panel***

- 8.27 A person shall immediately cease to be a of the Appeals Board if the person:
- a) is no longer a Member of a First Nation of the Nishnawbe Aski Nation;
  - b) is a Member of the Missanabie Cree First Nation;

- c) becomes an elected member of Chief or Council
- d) is of unsound mind and has been so found by a court in Canada or elsewhere;
- e) is convicted of an offence by way of indictment;
- f) is convicted of a corrupt practice in connection with an election, including the acceptance of a bribe, dishonesty, or willfully wrongful conduct;
- g) is unable to fulfill his or her duties as a member of the Appeals Board, and is removed by a quorum of the Appeals Board;
- h) resigns as a member of the Appeals Board in accordance with Section 40.8 of this Code; or
- i) is deceased.

#### ***Resigning as Board Member or Roster Panel***

8.28 A board member of the Appeals Board may resign from his or her position upon giving a written resignation to the Council, and such resignation becomes effective when received by the Council or at the time specified in the resignation, whichever is later.

### **Impartiality of the Dispute Resolution Panel**

#### ***Duty to Act Impartially***

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

#### ***Offence***

8.30 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***

8.31 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***

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

## **Arbitration by the Dispute Resolution Panel**

### ***Disputes***

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

### ***Panel of Three Chosen from Roster Panel***

8.34 Disputes referred to the Roster Panel are to be heard by three (3) panelists chosen as follows:

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

### ***Panel Established***

8.35 The Panel is hereby established with jurisdiction to resolve disputes in relation to Missanabie Cree First Nation Land.

### ***Dispute Resolution not Available***

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

## **Powers of the Dispute Resolution Panel**

### ***Power of the Panel***

8.37 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 Missanabie Cree First Nation Land, the registration of an Interest in Missanabie Cree First Nation Land, and



- f) the allocation of the costs of any incidental measures to be taken to give effect to such an order.

### ***Recommendations by Panel***

- 8.38 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***

- 8.39 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 Missanabie Cree First Nation Land.

### ***Professional Services***

- 8.40 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***

- 8.41 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 the party to the proceeding within fourteen (14) days after the date of the decision.

### ***Appeal of Decision***

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

# PART 9

## OTHER MATTERS

### Liability

#### *Liability Coverage Laws*

9.01 Council may enact laws providing for limits on liability, defenses and immunities to any person or entity in respect of any act or omission occurring in the exercise of a power or the performance of a duty under this *Land Code* or under a Land law.

#### *Liability Limitations*

9.02 The limits on liability, defenses and immunities in a Land law shall be no greater than those that would apply to a person or entity performing a similar duty under the laws of the province.

#### *Extent of coverage*

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

### Offences

#### *Application of the Criminal Code*

9.04 Unless some other procedure is provided for by a 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 Land law.

#### *Fines & Imprisonment*

9.05 Unless some other procedure is provided for by a Land law, any person who commits an offence under this *Land Code* or under a Land law is liable to a fine not to exceed five thousand (\$5,000) and to a term of imprisonment not to exceed six months or to both fine and imprisonment, provided however, that offences related to Missanabie Cree First Nation environmental protection laws

may carry penalties consistent with similar environmental protection laws in force in Canada.

## Revisions to Land Code

### *Revisions*

- 9.06 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 Missanabie Cree First Nation Land subject to this *Land Code*;
  - b) a reference in this *Land Code* to a clause in another act or document that was amended and resulted in clause renumbering;
  - c) a reference in this *Land Code* to 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 the Missanabie Cree First Nation without changing the substance of this *Land Code*; and
  - f) correct editing, grammatical or typographical errors.

## Commencement

### *Preconditions*

- 9.07 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*

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

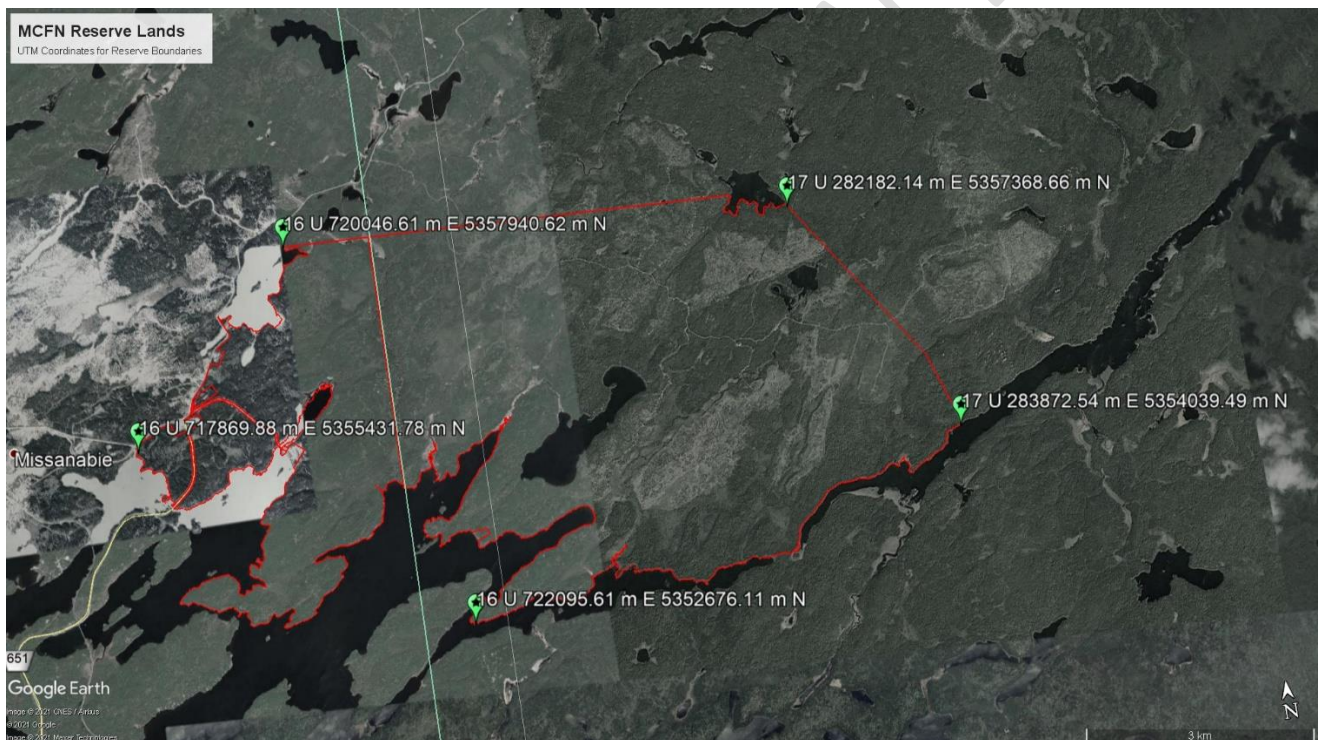
# APPENDIX “A”

## Description of the Missanabie Cree First Nation Lands

Missanabie Cree First Nation Reserve lands encompasses 38 square kilometers (15 square miles).

The reserve property is heavily forested and found north of Dog Lake, northwest of Crooked Lake, east and southeast of Eskay Lake and south and west of an unnamed Lake and Bobtail Lake.

The UTM coordinates for the 4 corners of the reserve lands are as follows:



Additions to this map may be added as needed.