

**Annex 1**

Certified: M.C. ←

M. Courchene

Date: JANUARY 22/2021



# Fisher River

CREE NATION

FISHER RIVER CREE NATION

## LAND CODE

June 17<sup>th</sup>, 2020

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JUNE 19/2020  
M.C.

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## PART 1 PREAMBLE

**Whereas** the Fisher River Cree Nation lives in accordance with the Laws of the Creator and the principal that our Lands and Resources are a sacred gift to be used for the collective benefit of our People;

**And Whereas** the Fisher River Cree Nation has a sacred duty to protect our Land and Resources and keep it safe for Future Generations;

**And Whereas** the Fisher River Cree Nation, in developing our own Laws, such as the Fisher River Cree Nation Land Code, that we are exercising our Inherent Right of Sovereignty over our Lands and Resources toward sustainability and its protection;

**And Whereas** the Fisher River Cree Nation has adhered to the *Framework Agreement on First Nation Land Management* whereupon Canada recognizes that the Fisher River Cree Nation has a unique connection to and constitutionally protected interest in our lands and resources, including decision-making, governance, jurisdiction, legal traditions, and fiscal relations associated with those lands and resources;

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

**And Whereas** the Fisher River Cree Nation wishes to govern its lands and resources, rather than having its lands and resources managed on its behalf under the *Indian Act*.

**NOW THEREFORE, THIS LAND CODE, BY AND WITH THE ADVICE OF ITS CITIZENS, IS HEREBY ENACTED AS THE FUNDAMENTAL LAND LAW OF FISHER RIVER CREE NATION.**

**PRELIMINARY MATTERS****1. Title**

Title 1.1 The title of this enactment is the "*Fisher River Cree 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:

**"Canada"** means Her Majesty the Queen in Right of Canada;

**"Community Land"** means any Fisher River Cree Nation land in which all members have a common interest, and which have not been allocated, including all the rights to the resources that belong to that land.

**"Common Law Partner"** of a person means another person who, not being married to the other person, cohabited with him or her in a conjugal relationship for a period of at least two (2) years or for a period of at least one (1) year and they are together the parents of a child.

**"Council"** means the Chief and Council of the Fisher River Cree Nation or any successor elected government of the Fisher River Cree Nation;

**"Eligible Voter"** means, for the purpose of voting in respect of land matters under this Land Code, a Fisher River Cree Nation Member who has attained the age of eighteen (18) years of age on the day of the vote.

**"Extended Family"**, in respect of a person, means the person's grandparent, parent, uncle, aunt, cousin, sister, brother, child, grandchild, spouse or common law partner and/or any other relation or relationship that Council may add by law;

**"First Nation Land Register"** means the register established pursuant to clause 51 of the *Framework Agreement* and regulated by the *First Nations Land*

*Registry Regulations* or any successor land register that may be established to replace the First Nation Lands Register;

**"Fisher River Cree Nation Financial Administration Law, 2017"** means the law enacted by the Fisher River Cree Nation respecting the financial administration of the Fisher River Cree Nation.

**"Framework Agreement"** means the *Framework Agreement on First Nation Land Management* entered into between the Minister of Indian Affairs and Northern Development and the Chiefs of fourteen First Nations, including the Fisher River Cree Nation, on February 12, 1996, as amended.

**"Immediate Relatives"**, in respect of a person, means the person's parent, sister, brother, child, spouse or common law partner and includes persons falling within such relationships by customary law including customary adoptions.

**"Individual Agreement"** means the Individual Agreement providing for the specifics of the transfer of administration made between Fisher River Cree Nation and Canada in accordance with the *Framework Agreement*;

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

**"Land"** or **"Fisher River Cree Nation Land"** means any reserve Land that is subject to this *Land Code*;

**"Lands Committee"** means the Lands Committee established under this Land Code.

**"Law"** means a law enacted pursuant to this Land Code.

**"Licence"** in relation to Fisher River Cree Nation Land, means any right of use or occupation of that Land, other than an Interest in the Land;

**"Panel"** means the Dispute Resolution Panel established under section 30.

**"Meeting of Members"** means a meeting under section 13 to which the members are invited to attend.

**"Member"** means a person whose name appears or is entitled to appear on the Fisher River Cree Nation Band Membership List.

"**First Nation**" means the Fisher River Cree Nation.

"**Resolution**" means a resolution of the Council enacted under this Land Code.

"**Riparian Rights**" means the legal rights of owners of land bordering a river or other body of water and the law that pertains to the use of the water for that land.

"**Spouse**" means a person who is married to another person, whether by a traditional, religious or civil ceremony, and includes a Spouse by Common-Law Partnership.

### 3. 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" signifies an obligation that, unless this *Land Code* provides to the contrary, must be carried out as soon as practicable after this *Land Code* comes into effect or the event that gives rise to the obligation;
- (c) unless it is otherwise clear from the context, the use of the word "including" means "including, but not limited to", and the use of the word "includes" means "includes, but is not limited to";
- (d) titles and headings have been inserted in the *Land Code* for convenience of reference only, and are not interpretive aids;
- (e) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine;
- (f) unless otherwise clear from the context, whenever the singular is used, it will include the plural, and the use of the plural includes the singular;
- (g) all references to a time period of days means consecutive days and not business days;

- (h) where the time limited for the doing of an act expires or falls on a Saturday or Sunday, or a First Nation, federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday;
- (i) where the time limited for the doing of an act in the Fisher River Cree Nation administration building falls on a day when the office is not open, the act may be done on the next day that the office is open;
- (j) where there is a reference to a number of days or a number of days between two events, in calculating that number of days, the days on which the events happen are excluded; and
- (k) the principles set out in the Preamble to this *Land Code* may be used to interpret this *Land Code*.

**Paramourncy**

- 3.2. If there is an inconsistency between this Land Code and any other enactment of the Fisher River Cree Nation, this Land Code prevails to the extent of the inconsistency.

**Culture and traditions**

- 3.3. The structures, organizations and procedures established by or under its Land Code shall be interpreted in accordance with the culture, traditions and customs of the Fisher River Cree *Nation*, unless otherwise provided.

**Language**

- 3.4. The language of the Fisher River Cree 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.

**Non-abrogation**

- 3.5. This Land Code does not abrogate or derogate from any Treaty, Aboriginal or Inherent Rights or Freedoms that pertain to the Fisher River Cree Nation or its members.



## Fair Interpretation

3.6. This Land Code shall be interpreted in a fair, large and liberal manner.

## Fiduciary Relationship

3.7. This Land Code does not abrogate the fiduciary relationship between Her Majesty and the Fisher River Cree Nation and its members.

## Rights not affected

3.8. This *Land Code* does not change:

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

## Lands and Interests affected

3.9. 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;
- (b) all the Interests and Licences granted by Canada listed in the Individual Agreement; and
- (c) all the Interests and Licences granted by Fisher River Cree Nation after this *Land Code* comes into effect.

## Eligible Reserve Land

3.10 Only Land that is a reserve of the Fisher River Cree Nation is eligible to be governed by Fisher River Cree Nation as Land under this *Land Code*.

#### 4. Authority to Govern

##### Origin of authority

- 4.1. The traditional teachings of the Fisher River Cree Nation speak of the obligation of the people of the Fisher River Cree Nation to care for and protect the land and resources. By enacting this Land Code, the Fisher River Cree Nation is renewing this sacred responsibility.

##### Flow of authority

- 4.2. The authority of the Fisher River Cree Nation to govern its lands and resources flows from the Creator to the people of the Fisher River Cree Nation, and from the people to the Chief and Council according to the culture, traditions, customs and laws of the Fisher River Cree Nation.

#### 5. Purpose

##### Purpose

- 5.1. The purpose of this Land Code is to set out the principles and administrative structures that apply to Fisher River Cree Nation lands and by which the Fisher River Cree Nation will exercise authority over those lands.

##### Ratification

- 5.2. The *Framework Agreement* is ratified and confirmed when this Land Code takes effect.

#### 6. Description of Fisher River Cree Nation Land

##### First Nation land

- 6.1. The Fisher River Cree Nation lands that are subject to this Land Code are those lands described in Appendix "A" of this Land Code and any other reserve Lands or Interests of the Fisher River Cree Nation that are made subject to this Land Code by resolution or ministerial order.

##### Addition to Fisher River Cree Nation Land

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

## Application of Land Code

- 6.3. Before the lands are transferred to Canada by the Fisher River Cree Nation or a third party for the purpose of being set apart as a reserve, or before the lands are set apart as a reserve, the Fisher River Cree Nation may, in accordance with its *Land Code*:
- (a) grant interests or land rights in and licences in relation to the lands, and
  - (b) enact zoning or other laws within the scope of the *Framework Agreement* in relation to the lands;

that will come into force only if and when the lands become Fisher River Cree Nation Land.

## Amendment to the Description of Land

- 6.4. As of the date of any resolution or ministerial order adding land to Fisher River Cree Nation Land, the description of the Fisher River Cree Nation Land in the *Land Code* will be deemed to be amended to add the description of the Fisher River Cree Nation Land set out in the resolution or order.

## PART 2 FIRST NATION LEGISLATION

### 7. Law-Making Powers

## Council may make laws

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

## Examples of laws

- 7.2. The following examples illustrate some of the laws that may be enacted:
- (a) laws on the regulation, control and prohibition of zoning, land use, subdivision control and land development;
  - (b) laws on the creation, regulation and prohibition of interests in and licenses to use in relation to Fisher River Cree Nation land;
  - (c) laws on environmental assessment and protection;
  - (d) laws on the provision of local services in relation to Fisher River Cree Nation land and the imposition of equitable user charges; and
  - (e) enforcement of Land laws; and
  - (f) laws on the provision of services for the resolution, outside the courts, of disputes in relation to Fisher River Cree Nation land.

**8. Law-Making Procedure**

## Introduction of laws

- 8.1. A proposed law may be introduced at a duly convened meeting of the Council by
- (a) the Chief or a Councilor;
  - (b) the representative of any body or authority composed of members that may be authorized by Council to do so; or
  - (c) a representative of the Lands Committee.

## Rationalization of Proposed Land law

- 8.2. Any proponent shall submit a written explanation of the reason for the proposed Land law.

## Lands Committee Review

- 8.3. Council shall refer a proposed Land law to the Lands Committee for review and comment, unless the Lands Committee is the proponent.

## Procedure upon receipt of Proposed Land law

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

Tabling and posting  
of proposed Land laws

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

## Urgent matters

- 8.6. Council may enact a Land law without the preliminary steps ordinarily required, if Council is of the opinion that the Land law is needed urgently for public health and safety or to protect Fisher River Cree Nation Land or the Members however this Land law expires one hundred and twenty

(120) days after its enactment unless re-enacted in accordance with the required preliminary steps.

Approval of Land law

- 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.

Certification of Land laws

- 8.8. The original copy of any approved Land law or resolution concerning Fisher River Cree 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 in the Land law.

## 9. Publication of Laws

Publication

- 9.1. All Land laws, this *Land Code*, and any enacted amendments to the *Land Code*, shall be published:
- (a) in the minutes of the Council meeting at which it was enacted;
  - (b) by registering the law into the First Nation Land Register;
  - (c) by posting a copy of the *Land Code* and Land law, as soon as practicable after enactment, in a location within the administrative office of Fisher River Cree Nation accessible to all Members;
  - (d) by posting a copy of the *Land Code* and Land law online; and
  - (e) by any additional method as Council may consider appropriate.

Registry of laws

- 9.2. The Council shall cause to be kept, at the administrative offices of the Fisher River Cree *Nation*, a register containing the *Land Code*, all land laws and resolutions, including land laws and resolutions that have been repealed or are no longer in force.

Copies for any  
Person

- 9.3. Any person may obtain a copy of a law or resolution on payment of a reasonable fee set by the Council.

## 10. Enforcement of Land Laws

Enforceability of Land laws

- 10.1. To enforce its *Land Code* and its Land laws, Fisher River Cree 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 and provincial law, including inspections, searches, seizures and compulsory sampling, testing and the production of information; and

Agreement for Recovery of Fines

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

Prosecuting Offences

- 10.3. For the purpose of prosecuting offences, Fisher River Cree Nation may:
- (a) retain its own prosecutor;
  - (b) enter into an agreement with the 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

### 11. Participation of Members

#### Participation of Members

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

### 12. Meeting of Members

#### Notice of meeting

12.1. Council shall give written notice of the meeting of Members, and include in the notice:

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

#### Manner of notice

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

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

#### Permission of Council

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



## Informed Decision

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

**13. Community Meetings of Members**

## Community Meetings

- 13.1. Council shall call a meeting of Members 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 Fisher River Cree Nation Land;
  - (e) enacting a Land law respecting family homes and matrimonial interests on Fisher River Cree Nation Land;
  - (f) enacting a Land law respecting the rate and criteria for the payment of fees or rent for Fisher River Cree Nation Land;
  - (g) enacting a Land law respecting the rights and procedures on community expropriation; and
  - (h) developing a parcel of land that has been designated or identified as culturally or environmentally sensitive property;
  - (i) respecting any other matter, Land law or class of law that Council, by Resolution, declares to be subject to this section.

## 14. Community Approval

### Community approval

14.1. Community approval shall be obtained for the following:

- (a) any initial or master Land use plan;
- (b) any new grant, disposition or renewal of an Interest or Licence in any Fisher River Cree Nation Land exceeding a term of thirty five (35) years;
- (c) any renewal of a grant or disposition of an Interest or Licence in any Fisher River Cree 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 Fisher River Cree Nation Land exceeding a term of five (5) years;
- (e) any voluntary exchange of Fisher River Cree Nation Land; and
- (f) any other matter, Land law or class of law that Council, by resolution, declares to be subject to this section.

### Utility Permits Excepted

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

### Method of Voting

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

- (a) establishing polling locations;
- (b) show of hands;
- (c) mail-in ballot;
- (d) alternative voting methods, such as electronic; or

- (e) any other method outlined in voting policies.

## Approval by Majority

- 14.4. A matter shall be considered approved if a majority of participating Eligible Voters cast a vote in favour of the matter.

## Increased threshold

- 14.5. Despite 14.4, Council may, by resolution prior to a vote, do the following:

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

## Policies Consultation, Approval and Ratification

- 14.6. For greater certainty, Council may make Land laws or policies respecting:

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

## PART 4 PROTECTION OF LAND

### 15. Expropriation

## Acquisition by Mutual Agreement

- 15.1. The Fisher River Cree Nation may expropriate an Interest or Licence in Fisher River Cree Nation Land, provided that it has made a good faith effort to acquire, by mutual agreement, the Interest or Licence.

## Rights and Interests that may be expropriated

- 15.2. An Interest or Licence in Fisher River Cree Nation Land, or in any building or other structure on that Land, may only be expropriated by Fisher River Cree 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

- 15.3. A community expropriation shall only be made for necessary community works or other Fisher River Cree Nation purposes, including, but not limited to, a fire hall, sewage or water treatment facility, community center, public works, utilities, roads, schools, daycare facility, hospitals, health-care facility, retirement home or other economic development projects.

## Expropriation Land laws

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

## Public report

- 15.5. Before Fisher River Cree Nation expropriates an Interest or Licence, it shall make a public report on the reasons justifying the expropriation.

## Member notification

- 15.6. In the case of an expropriation of a Member's Interest in Fisher River Cree Nation Land, the affected Member or Members shall receive notification of the expropriation within a reasonable time prior to the release of the public report.

Rights that may not  
be expropriated

- 15.7. In accordance with clause 17.6 the Framework Agreement, an Interest of Canada or the province in Fisher River Cree Nation Land is not subject to expropriation by the Fisher River Cree Nation.

Compensation for  
rights and Interests

- 15.8 Fisher River Cree Nation shall, in accordance with its Land laws and the Framework Agreement:
- (a) serve reasonable notice of the expropriation on each affected holder of the Interest or Licence to be expropriated; and
  - (b) pay fair and reasonable compensation to the holders of the Interest or Licence being expropriated.

## Compensation calculations

- 15.9 In accordance with clause 17.4 the Framework Agreement, Fisher River Cree 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

- 15.10 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

- 15.11 The resolution of disputes concerning the right of the Fisher River Cree 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

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

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

## 16 Voluntary Land Exchanges and Protections

### Conditions for a land exchange

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

### No effect

- 16.2 A land exchange is of no effect unless it receives community approval A land exchange is of no effect unless it receives community approval by a ratification vote.

### Land to be received

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

### Negotiators

- 16.4 The persons who will have authority to negotiate a land exchange agreement on behalf of the Fisher River Cree Nation must be designated by resolution.

### Additional land

- 16.5 The Fisher River Cree Nation may negotiate to receive other compensation, such as money or one or more other parcels of land, in addition to the parcel referred to above which is intended to become a

reserve. Such other parcels of land may be held by the Fisher River Cree Nation in fee simple or some other manner.

Federal Consent

- 16.6 Before the Fisher River Cree Nation concludes a land exchange agreement, it must receive a written statement from Canada clearly stating that Her Majesty in right of 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 the Council may specify by resolution or as provided by an agreement with Canada; and
  - (b) consents to the manner and form of the exchange as set out in the exchange agreement.

Community notice

- 16.7 Once negotiations on the land exchange agreement are concluded, the Council shall provide the following information to eligible voters at least 21 days before the vote:
- (a) a description of the Fisher River Cree 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

- 16.8 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) the Council must pass a resolution authorizing Canada to transfer title to the Fisher River Cree Nation land being exchanged, in accordance with the exchange agreement; and
- (c) a copy of the instruments transferring title to the relevant parcels of land must be registered in the First Nations 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 Fisher River Cree Nation, and with full indemnification to Fisher River Cree Nation.

## PART 5 ACCOUNTABILITY

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

#### Application

- 17.1 The rules in the *Land Code* apply to the following persons:
- (a) a member of Council who is dealing with any matter before Council related to Fisher River Cree Nation Land;
  - (b) each person who is an employee of the Fisher River Cree Nation dealing with any matter that is related to Fisher River Cree 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 Fisher River Cree Nation dealing with any matter that is related to Fisher River Cree Nation Land.

#### Duty to report and abstain

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



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

**Apparent conflict of interest**

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

**Inability to act**

- 17.4 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**

- 17.5 If Council is unable to vote on a matter due to a conflict of interest, Council may refer a matter, a proposed Land law or resolution to a community meeting of Members.

**Specific Conflict situations**

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

**Disputes**

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

**Other laws**

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

## 18 Financial Management

### Application

- 18.1 This section applies only to financial matters relating to Fisher River Cree Nation Land and natural resources.

### Fisher River Cree Nation Financial Administration Law

- 18.2 The financial administration of Fisher River Cree Nation lands under this Land Code including the management of monies relating to Fisher River Cree Nation land shall be administered in accordance with the *Fisher River Cree Nation Financial Administration Law, 2017* as amended from time to time.
- 18.3 Council may, in accordance with the *Fisher River Cree Nation Financial Administration Law, 2017* and this *Land Code*, develop, adapt, or adopt financial management laws or policies, including:
- (a) regulating the receipt, management and expenditure of moneys, including transfer payments, all capital and revenue moneys received from Canada, all Land revenue, and moneys received from a grant or disposition of any Interest or Licence in relation to Fisher River Cree 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

18.4 Council shall establish in accordance with the *Fisher River Cree Nation Financial Administration Law, 2017* and this Land Code, 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 Fisher River Cree 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.

**19 Annual Report**

## Publish annual report

19.1 The Council, on behalf of the Fisher River Cree Nation, shall publish an annual report on land matters.

## Contents

19.2 The annual report will include

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

## 20 Access to Information

### Access

- 20.1 Any member may, during normal business hours at the main administrative office of the Fisher River Cree Nation, have reasonable access to
- (a) the register of laws;
  - (b) the auditor's report; and
  - (c) the annual report on lands.

### Copies for members

- 20.2 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 the Council.

### Access to records

- 20.3 Any member authorized by the Council may, at any reasonable time, inspect the financial records of Fisher River Cree Nation related to Fisher River Cree Nation land.

## PART 6 LAND AND NATURAL RESOURCE ADMINISTRATION

## 21 Land Staff

### Administration

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

## 22 Lands Committee

### Lands Committee established

- 22.1 The Lands Committee is hereby established to:
- (a) assist with the development of the land administration system;

- (b) advise the Council and its staff on matters respecting Fisher River Cree Nation land;
- (c) recommend laws, resolutions, policies and practices respecting Fisher River Cree Nation land to the Council;
- (d) consult with Members and non-Members on Fisher River Cree Nation Land issues and make recommendations to Council on the resolution of these land issues;
- (e) assist in the communication of land issues between members and the Council; and
- (f) oversee community approvals under this Land Code;
- (g) perform such other duties as may be delegated or assigned by resolution or Land law under this *Land Code*.

Process to  
Implement Land laws

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

Internal procedures

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

## 23 Implementation of the Lands Committee

First Lands Committee

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

Policy Governing Successors to  
the First Lands Committee

23.2 As soon as possible after the coming into force of this *Land Code*, Council, in consultation with the Lands Committee, shall develop a policy for the selection, election, or appointment of Eligible Voters to serve on the Lands Committee, and dealing with such matters as number of members,

composition, eligibility, Chair and Deputy Chair, functions of the Chair, term of office, remuneration, conditions of service, termination, vacancies arising during term and such other matters as Council deems appropriate to the operation of the Lands Committee.

## PART 7 INTERESTS AND LICENCES IN LAND

### 24 Revenue from Land and Natural Resources

#### Determination of Fee's and Rent

- 24.1 The Lands Committee shall, subject to the approval of Council, establish the process and recommend any Land laws, rules and policies for determining:
- (a) the fees and rent for Interests and Licences in Fisher River Cree Nation Land;
  - (b) the fees for services provided in relation to any Fisher River Cree Nation Land; and
  - (c) the fees and royalties to be paid for the taking of natural resources from Fisher River Cree Nation Land.

### 25 Registration of Interests and Licences

#### Enforcement of Interest and Licences

- 25.1 An Interest or Licence in Fisher River Cree 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

- 25.2 An instrument granting an Interest or Licence in Fisher River Cree 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

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

- (a) any grant of an Interest or Licence in Fisher River Cree Nation Land;
- (b) any transfer or assignment of an Interest or Licence in Fisher River Cree 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*.

## 26 Limits on Interests and Licences

## All dispositions in writing

26.1 An Interest or Licence in Fisher River Cree 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

26.2 Council may establish mandatory standards, criteria and forms for Interests and Licences in Fisher River Cree Nation Land.

## Improper Transactions void

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

## 27 Existing Interests

Continuation of  
existing Interests and Licences

- 27.1 Any Interest or Licence in Fisher River Cree 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

- 27.2 For greater certainty, the terms of a designation or surrender made under the *Indian Act* do not restrict the ability of the Fisher River Cree Nation and third parties, a Member or non-Member, by agreement, to modify an Interest or Licence or to have the Interest or Licence replaced by a new Interest or Licence in accordance with this *Land Code*.

Unregistered Interests

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

## 28 New Interests and Licences

Authority to make  
Dispositions

- 28.1 Council may, on behalf of Fisher River Cree Nation, grant:
- (a) Interests and Licences in Fisher River Cree Nation Land, including member allocations, leases, permits, easements and rights-of-way; and
  - (b) Licences to take natural resources from Fisher River Cree Nation Land, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances.

Conditional grant

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



Role of the Lands  
Committee

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

**29 Interests of Non-Members**

## Grants to non-Members

- 29.1 A transfer or other disposition of all or any part of an Interest or Licence in Fisher River Cree 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.

**30 Certificates of Possession or Member Interests**

## Application

- 30.1 For greater certainty, certificates of possession or Member Interests previously issued under the *Indian Act* or by custom shall continue to exist in accordance with their terms and conditions after the coming into force of this *Land Code*.

**31 Allocation of Land to Members**Policies and procedures  
for allocation of Land

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

## Allocation

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

No allocation of Land  
to non-Members

- 31.3 A person who is not a Member is not entitled to be allocated Land or to hold a permanent Interest in Fisher River Cree Nation Land.

## 32 Transfer and Assignment of Interests

### Transfer of Member Interest

- 32.1 A Member may not transfer or assign an Interest in Fisher River Cree Nation Land to another Member without community approval or the consent of Council.

### Consent of Council

- 32.2 There shall be no transfer or assignment of an interest in Fisher River Cree Nation Land without the written consent of Council, except for:
- (a) transfers that occur by operation of law, including transfers of estate by testamentary disposition; and
  - (b) transfers in accordance with any family homes and matrimonial interests Land laws.

## 33 Limits on Mortgages and Seizures

### Protections

- 33.1 In accordance with the *Framework Agreement*, the following provisions of the *Indian Act*, as amended from time to time, continue to apply to the Fisher River Cree Nation Land:
- (a) Section 29, Exemption from Seizure;
  - (b) Section 87, Property Exempt from Taxation;
  - (c) Sub-section 89(1); Restriction on Mortgage and Seizure of Property on Reserve; and
  - (d) Sub-section 89(2), Restriction on Mortgage and Seizure of Property on Reserve and Conditional Sales.

### Mortgage of Allocated Land

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

**Mortgages of leasehold Interests  
with consent**

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

**Time limit**

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

**Default in mortgage**

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

**Power of redemption**

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

**Waiver of redemption**

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

**34 Residency and Access Rights****Right of residence**

- 34.1 The following persons have a right to reside on Fisher River Cree Nation Land:

- (a) Members and their Spouses and children;
- (b) Members with a registered Interest in Fisher River Cree 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

34.2 The following persons have a right of access to Fisher River Cree Nation Land:

- (a) a lessee and his or her invitees;
- (b) a person granted a right of access under a permit;
- (c) Fisher River Cree Nation Members and their Spouses and children and his or her invitees;
- (d) a person who is authorized by a government body or any other public body, established by or under an enactment of the Fisher River Cree 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 Lands Committee or by a Land law.

## Public access

34.3 Any person may have access to Fisher River Cree Nation Land for any social or business purposes, if:

- (a) the person does not trespass on occupied Land and does not interfere with any Interest in Land;
- (b) the person complies with all applicable laws; and

- (c) no resolution has been enacted barring that person.

Use of Roads

- 34.4 Any person may have the right of access to Fisher River Cree Nation public roads, subject to this *Land Code* and Land laws.

Trespass

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

Civil remedies

- 34.6 All civil remedies for trespass are preserved.

### 35 Transfers on Death

*Indian Act* application

- 35.1 Subject to any Land laws on family homes and matrimonial interests, until Fisher River Cree 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 Fisher River Cree Nation Land.

Registration of transfer

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

Disposition of Interest

- 35.3 If no provision has been made by the deceased Member of the disposition of the Interest to another Member, the following rules apply:
- (a) the Minister or his or her delegate may make application to Council requesting that an instrument evidencing lawful possession or occupation of Fisher River Cree Nation Land be issued; or
  - (b) a certificate for an Interest or other instrument may be issued in accordance with procedures established by Council, or

application of the Minister or his or her delegate, if the beneficiary or purchaser is a Member of the Fisher River Cree Nation.

### 36 Family Homes and Matrimonial Interests Land Law

#### Development of rules and procedures

- 36.1 Council has the power to enact Land laws that apply during a conjugal relationship, when that relationship breaks down or on the death of a Spouse, respecting:
- (a) the use, occupancy and possession of family homes on Fisher River Cree Nation Land;
  - (b) the division of the value of any Interests held by Spouses in or to structures and lands on Fisher River Cree Nation Land; and
  - (c) the period of cohabitation in a conjugal relationship to qualify as a Common-Law Partnership.

#### Enactment of rules and procedures

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

#### Additional Provisions

- 36.3 Family homes and matrimonial Interests Land Laws may include:
- (a) provisions for administrating those laws;
  - (b) despite subsection 89 (1) of the *Indian Act*, provisions for enforcing, on Fisher River Cree Nation Land, an order of a court or a decision made or an agreement reached under those laws; and
  - (c) procedures for amendment and repeal of those laws.

## Notice of Land Laws

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

## PART 8 DISPUTE RESOLUTION

### 37 Purpose

## Intent

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

## Purpose

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

### 38 Disputes

## Dispute Prevention

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

Disputes Prior  
to Land Code

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

## Decision of Council or Lands Committee

- 38.3 If a Member, or a non-Member with an Interest or Licence in Fisher River Cree Nation Land, has a dispute with respect to a decision of Council or the Lands Committee, the person shall first attempt to resolve that dispute

with Council or the Lands Committee, before referring the dispute to the Panel.

#### Settle a Dispute

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

#### Settlement Agreement

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

#### Contractual Agreement

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

#### Variation of Rules

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

#### Civil Remedies

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

#### Challenge to Validity of Law

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

## 39 Processes

#### Staged Processes

- 39.1 Fisher River Cree Nation intends that a dispute in relation to Fisher River Cree 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**

39.2 A person who wishes to resolve a dispute with another person or Fisher River Cree Nation in relation to the use or occupation of Fisher River Cree Nation Land may file a written notice of dispute setting out:

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

**Termination of Processes**

39.3 Facilitated discussions, 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**

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

Dispute resolution  
not available

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

- (a) administration or distribution of an estate;
- (b) decisions relating to housing allocations;
- (c) decisions of Council to grant or refuse to grant an Interest or Licence in Fisher River Cree Nation Land to a non-Member;
- (d) decisions on expropriation under this *Land Code*: and
- (e) prosecution or conviction of an offence under a Land law or under criminal law.

Duty of Fairness

39.6 All persons involved in a dispute under this part shall be:

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

Rules and Procedures

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

- (a) facilitated discussions, 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**

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

**40 Roster Panel Established****Appointment to Roster Panel**

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

**Ineligible**

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

**Representation**

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

**Rules of Roster Panel**

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

**41 Impartiality of the Dispute Resolution Panel****Duty to Act Impartially**

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

## Offence

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

## Rejection of Application

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

## Rules of Conduct for Parties to a Dispute

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

**42 Arbitration by the Dispute Resolution Panel**

## Disputes

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

## Panel of Three Chosen From Roster Panel

- 42.2 Disputes referred to the Roster Panel are to be heard by three (3) panelists chosen as follows:
- (a) one (1) panelist is to be chosen by each of the two (2) parties to the dispute;
  - (b) one (1) panelist, who is to be the chairperson, shall be chosen by the rest of the Panel; and
  - (c) in the case of situations not adequately covered by clause (a) or (b), all three (3) panelists shall to be chosen by the Roster Panel as a whole.

## Panel Established

- 42.3 The Panel is hereby established with jurisdiction to resolve disputes in relation to Fisher River Cree Nation Land.

Dispute resolution  
not available

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

### 43 Powers of the Dispute Resolution Panel

#### Power of the Panel

43.1 The Panel may, after hearing a dispute:

- (a) confirm or reverse the decision, in whole or in part;
- (b) substitute its own decision for the decision in dispute;
- (c) direct that an action be taken or ceased;
- (d) refer the matter or dispute back for a new decision; or
- (e) make an order to give effect to its decision, including any necessary order for the survey of an Interest in Fisher River Cree Nation Land, the registration of an Interest in Fisher River Cree Nation Land, and the allocation of the costs of any incidental measures to be taken to give effect to such an order.

#### Recommendations by Panel

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

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

#### Interim Decisions

43.3 The Panel may, in relation to a dispute over which it has jurisdiction under this part, make any interim order it considers to be necessary as a matter of urgency to preserve the rights of the parties to the dispute or to preserve or protect an Interest in Fisher River Cree Nation Land.

#### Professional Services

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

Written Decisions

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

Appeal of Decision

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

## PART 9 OTHER MATTERS

### 44 Liability

Liability Coverage Laws

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

Liability Limitations

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

Extent of coverage

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

## 45 Offences

### Application of the Criminal Code

- 45.1 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

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

## 46 Amendments to Land Code

### Amendments

- 46.1 Community Approval 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 Fisher River Cree 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 Fisher River Cree Nation without changing the substance of this *Land Code*; and
- (f) correct editing, grammatical or typographical errors.

## 47 Commencement

### Preconditions

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

### Commencement date

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



## APPENDIX "A"

### Description of the Fisher River Cree Nation Land

#### 1. Fisher River Indian Reserve No.44 - CLSR # FB4I 861

In the Province of Manitoba, Canada:

In Townships 28 & 29, Ranges 1 & 2 East of the Principal Meridian and Township 28,

Range 1 West of the Principal Meridian:

#### A) Land Description of the extent of reserve lands that will be subject to the land code of Fisher River Cree Nation under the First Nations Land Management Act.

Fisher River Indian Reserve No.44 as shown bounded by the following official plans recorded in the Canada Lands Survey Records: 4704, 4705, 5099, 65009, 82471, 82472, 84185, 84186, and 97767; *not* including any portion of Fisher River.

#### Saving and Excepting:

1. The road labelled as "Right-of-Way of Dallas - Fisher Bay Highway" as show on plan 4704 CLSR; containing 12.0 acres (4.87 hectares), more or less.
2. The Right-of-Way for Public Road as shown on plan 53319 CLSR (9519 LTO); containing 83.9 acres (34.0 hectares), more or less.
3. The Right-of-Way for Public Road as shown on plan 53320 CLSR (9520 LTO); containing 23.8 acres (9.62 hectares), more or less.
4. The Public Road as shown on plan 65039 CLSR; containing 33.3 acres (13.5 hectares), more or less.

Total reserve lands that will be subject to the land code containing **5,462 hectares (13,497 acres)**, more or less.

#### B) Land Description of the extent of reserve lands that will not be subject to the land code of Fisher River First Nation and which have been excluded under Section 7 of the First Nations Land Management Act.

1. The road labelled as "Right-of-Way of Dallas - Fisher Bay Highway" as show on plan 4704 CLSR; containing 12.0 acres (4.87 hectares), more or less.
2. The Public Road as shown on plan 65039 CLSR; containing 33.3 acres (13.5 hectares), more or less.

Total reserve lands excluded under Section 7 containing **45.3 acres (18.4 hectares)**, more or less.

**Notes:**

1. The Administrative Sketch in Section 3 illustrates this land description.
2. Refer to the pertinent survey plans and instruments for authoritative boundary definition and nature of the interest in the land.
3. The extent of Oil and Gas Rights are not dealt with in this description.
4. The area specified in the Land Description is subject to survey and has been rounded accordingly to conform to the area guidelines set out in Appendix B:  
Recommended: Scales and Area, of the National standards for the Survey of Canada Lands.

Report completed by H.D. Lipinski, CLS, ALS, Surveyor General Branch on November 23, 2016.

**2. Fisher River Indian Reserve No.44A – CLSR # FB41860**

A) *Land Description of the extent of reserve lands that will be subject to the Land Code of Fisher River Cree Nation under the First Nations Land Management Act.*

In the Province of Manitoba;

in Township 28, Range 1 west of the Principal Meridian:

Sections 15, 16, S.1/2 Section 21, S.% Section 22 and intervening road allowances as shown on plan 4658 CLSR; containing 1,938 acres (784 hectares), more or less.

**Saving and Excepting:**

The Public Road as shown on plan 57609 CLSR; containing 6.18 acres (2.50 hectares), more or less.

Total reserve lands that will be subject to the land code containing **1,932 acres (782 hectares)**, more or less.

**B) Land Description of the extent of reserve lands that will not be subject to the land code of Fisher River First Nation and which have been excluded under subsection 7(1) of the First Nations Land Management Act.**

The Public Road as shown on plan 57609 CLSR; containing **6.18 acres (2.50 hectares)**, more or less.

**Notes**

1. The Administrative Sketch in Section 3 illustrates this land description.

2. Refer to the official survey plans and instruments for authoritative boundary definition and nature of the interest in the land.
3. The extent of Oil and Gas Rights are not dealt with in this description.
4. The area specified in the Land Description has been rounded accordingly to conform to the area guidelines set out in Appendix B: Recommended Scales and Area, of the National standards for the Survey of Canada Lands.

*Report completed by H.D. Lipinski, CLS, ALS, Surveyor General Branch on March 7, 2017.*