

# Land Code Review

Brunswick House First Nation

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# Preliminary Matters

Part 1

## 4. Purpose

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

## 2.6 Rights Not Affected

- ▶ 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 Brunswick House First Nation or its Members; or
  - b) the fiduciary relationship between Canada and Brunswick House First Nation and its Members; or
  - c) the by-law powers of Council pursuant to the Indian Act.

# 5. Description of Land

## Eligible Reserve Land

- ▶ Only Land that is a reserve of the Brunswick House First Nation is eligible to be governed by Brunswick House First Nation as Land under this Land Code.

## BHFN Land

- ▶ The Brunswick House First Nation Land that is subject to this Land Code is that Land known as Duck Lake Indian Reserve No. 76B and Mountbatten Indian Reserve No. 76A as listed in the Individual Agreement.

# First Nation Legislation

Part 2

# 6. Law-Making Powers

## Council May Make Land Laws

- ▶ Council may, in accordance with this Land Code, make Land laws respecting:
  - a) the development, conservation, protection, management, use and possession of Brunswick House First Nation Land;
  - b) Interests and Licences in relation to Brunswick House First Nation Land; and
  - c) any matter necessary to the making of Land laws in relation to the Brunswick House First Nation Land.

## 6. Law-Making Powers Cont'd

### Examples of Land Laws

- ▶ For greater certainty, Council may make Land laws including:
  - a) regulation, control and prohibition of zoning, Land use, subdivision control and Land development;
  - b) the creation, regulation and prohibition of Interests and Licences in relation to Brunswick House First Nation Land;
  - c) environmental assessment and protection;
  - d) provision of local services in relation to Brunswick House First Nation Land and the imposition of equitable user charges;
  - e) enforcement of Brunswick House First Nation Land laws; and
  - f) provision of services for the resolution, outside the courts, of disputes in relation to Brunswick House First Nation Land.

# 7. Law-Making Procedure

## Introduction of Land Laws

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

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

## Rationalization of Proposed Land Law

Any person shall a written explanation of the reason for the proposed Land law.



# 7. Law-Making Procedure Cont'd

## Lands Committee Review

- ▶ Council shall refer a proposed Land law to the Lands Committee for review and comment.

## Procedure Upon Receipt of Proposed Land Law

- ▶ Council 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.

# 7. Law-Making Procedure Cont'd

## Enforceability of Land Laws

- ▶ 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.
- ▶ 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.

# 9. Enforcement of Land Laws

## Enforceability of Land Laws

- ▶ To enforce its Land Code and its Land laws, Brunswick House First Nation shall have the power to:
  - a) establish offences that are punishable on summary conviction;
  - b) provide for fines, imprisonment, restitution, community services, and alternate means for achieving compliance;
  - c) establish comprehensive enforcement procedures consistent with federal law, including inspections, searches, seizures and compulsory sampling, testing and the production of information; and
  - d) enter into agreements with provincial or municipal governments with respect to any matter concerning the enforcement of its Land Code and Land laws.

# Dispute Resolution

Part 8

# 38. Purpose

## Intent

- ▶ The intent of this part is to ensure that all persons entitled to possess, reside upon, use or otherwise occupy Brunswick House First Nation Land do so harmoniously with due respect to the rights of others and of Brunswick House First Nation.

## Purpose

- ▶ 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.

# 39. Disputes

## Dispute Prevention

- ▶ 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.

## Decision of Council or Lands Committee

- ▶ If a Member, or a non-Member with an Interest in Brunswick House 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.

# 40. Processes

## Staged Processes

Brunswick House First Nation intends that a dispute in relation to Brunswick House 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

A person who wishes to resolve a dispute with another person or Brunswick House First Nation in relation to the use or occupation of Brunswick House 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
- c) dispute claim; and
- d) the relief that is sought.

# 40. Processes Cont'd

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 Brunswick House 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

- 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.



# 41. Roster Panel Established

Brunswick House  
Chief & Council



Roster Panel (Maximum: 20 Panelists)

Council appoints a maximum of 20 Panelists to the Roster Panel.

No Council member, or employee or person already serving on another board, body, or committee shall sit on the Roster Panel.

Council shall ensure that the Roster panelists represent the various elements of the community.

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

## 42. Impartiality of the Dispute Resolution Panel

### Duty to Act Impartially

- ▶ The Dispute Resolution Panel has the duty to act impartially and without bias or favour to any party in a dispute.

### Offences

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

# 43. Arbitration by the Dispute Resolution Panel

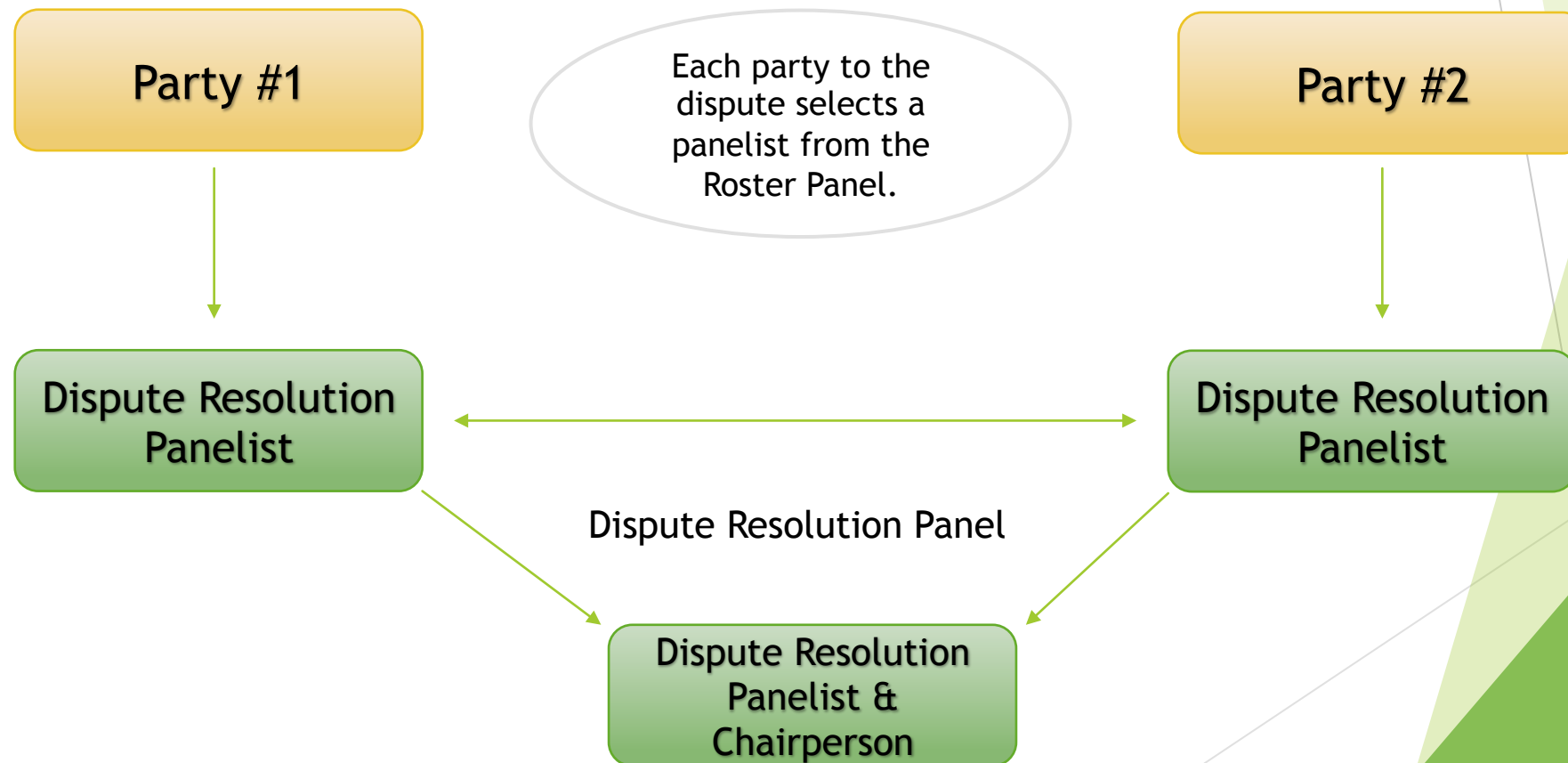
## Disputes

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

## Panel of Three Chosen from Roster Panel

- 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.

# Dispute Resolution Panel



# 44. Powers of the Panel

- ▶ 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 Brunswick House First Nation Land, the registration of an Interest in Brunswick House First Nation Land, and the allocation of the costs of any incidental measures to be taken to give effect to such an order.

# Other Matters

Part 9

# 46. Offences

## Application of the Criminal Code

- ▶ Unless some other procedure is provided for by a Brunswick House First Nation Land law, the summary conviction procedures of part XXVII of the Criminal Code, as amended from time to time, apply to offences under this Land Code or under a First Nation Land law.

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# Miigwetch

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