



# **Whitecap Dakota First Nation Land Code**

Effective October 29, 2015

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**1. PREAMBLE**

Whereas the Whitecap Dakota First Nation has a profound relationship with the land that is rooted in respect for the Spiritual value of the Earth and the gifts of the Creator and has a deep desire to preserve its relationship with the land;

And Whereas the *Framework Agreement on First Nation Land Management* was entered into by the Minister of Indian Affairs and Northern Development and fourteen First Nations on February 12, 1996, and which was ratified on behalf of the Government of Canada by the *First Nations Land Management Act*;

And Whereas the Whitecap Dakota First Nation has the option of withdrawing its lands from the land provisions of the *Indian Act* in order to exercise control over its lands and resources for the use and benefit of its members, rather than having its land managed on its behalf by Canada;

And Whereas the Whitecap Dakota First Nation wishes to exercise control over its lands and resources for the use and benefit of its members by adhering to the *Framework Agreement on First Nation Land Management* and by having the *First Nations Land Management Act* apply to its lands.

And Whereas the Whitecap Dakota First Nation adhered to the Framework Agreement on First Nations Land Management on March 31, 2003;

And Whereas the Whitecap Dakota First Nation and Her Majesty the Queen in Right of Canada entered into an Individual Agreement under the *Framework Agreement on First Nations Land Management* and the *First Nations Land Management Act*;

And Whereas the Whitecap Dakota First Nation membership ratified the Whitecap Dakota First Nation Land Code on November 7, 2003;

And Whereas the Whitecap Dakota First Nation Land Code was enacted as a fundamental law of the Whitecap Dakota First Nation effective January 1, 2004;

And Whereas the Whitecap Dakota First Nation Land Code was repealed and replaced with the Whitecap Dakota First Nation Land Code 2009;

And Whereas the Whitecap Dakota First Nation intends to amend the name and certain provisions of the Whitecap Dakota First Nation Land Code 2009;

**NOW THEREFORE, THE NAME AND CERTAIN PROVISIONS OF THE WHITECAP DAKOTA FIRST NATION LAND CODE 2009 ARE HEREBY AMENDED BY THE WHITECAP DAKOTA FIRST NATION LAND CODE 2015.**

**AND NOW THEREFORE, ALL LAND LAWS MADE AND ANY INTERESTS OR LICENSES GRANTED PURSUANT TO THE WHITECAP DAKOTA FIRST NATION LAND CODE ARE HEREBY PROCLAIMED TO CONTINUE IN FULL FORCE AND**

**EFFECT UNDER THIS, THE WHITECAP DAKOTA FIRST NATION LAND CODE 2015.**

**2. Title**

Title  
2.1 The title of this enactment is the *Whitecap Dakota First Nation Land Code 2015*.

**3. Interpretation**

Definitions

3.1 In this Land Code,

**“Community Land”** means any Whitecap Dakota First Nation Land in which all Members have a common interest;

**“Community Lands Meeting”** means a meeting called under section 29 of this Land Code;

**“Council”** means the duly elected Chief and Council of the Whitecap Dakota First Nation;

**“Eligible Voter”** means, for the purpose of voting in respect of land matters under this Land Code, a Member who has attained eighteen (18) years of age as of the date of the vote;

**“First Nations Land Management Act”** means the *First Nations Land Management Act*, S.C., 1999, c. 24, as amended from time to time;

**“First Nations Land Register”** means the register established and maintained by the Department of Indian Affairs and Northern Development under the *Framework Agreement* and the *First Nations Land Management Act*;

**“Framework Agreement”** means the *Framework Agreement on First Nation Land Management* entered into between the Minister of Indian Affairs and Northern Development and fourteen First Nations, on February 12, 1996, as amended to include the Whitecap Dakota First Nation, and which was ratified, on behalf of the Government of Canada, by the *First Nations Land Management Act*;

**“Individual Agreement”** means the Individual Agreement made, pursuant to subsection 6(3) of the *First Nations Land Management Act*, between the Whitecap Dakota First Nation and Her Majesty in Right of Canada, as amended from time to time;

**“Interest”** means any interest, right or estate of any nature in or to Whitecap Dakota First Nation Lands, including a lease, easement, right of way, servitude, or profit a prendre, but does not include title to that land;

**“Immediate Family”**, in respect of a person, means the person’s spouse, biological or adoptive parent, sister, brother or child;

**“Lands Advisory Board”** means the Lands Advisory Board established pursuant to section 38 of the *Framework Agreement*;

**“Lands Advisory Committee”** means the committee established by the Council pursuant to Article 20 of this Land Code to advise the Council on land matters;

**“Land Law”** means a land law enacted pursuant to this Land Code;

**“Land Resolution”** means a resolution of Council made pursuant to this Land Code to approve the granting of an Interest or Licence;

**“License”** means any right of use or occupation of Whitecap Dakota First Nation Lands, other than an Interest in that land;

**“Marketable Residential Lease”** means a lease of Whitecap Dakota First Nation Lands in an area that has been zoned for marketable residential leasing purposes or which has otherwise been designated by the Council for marketable residential leasing purposes;

**“Member”** means a person whose name appears or is entitled to appear on the Whitecap Dakota First Nation Band Membership List;

**“Ratification Vote”** means a vote of the Eligible Voters to obtain community approval in accordance with Article 32 of this Land Code;

**“Whitecap Dakota First Nation” or “First Nation”** means the Whitecap Dakota First Nation;

**“Whitecap Dakota First Nation Lands”** means any portion of the land referred to in Article 6 of this Land Code, including all the rights and resources that belong to the land; and;

**“Whitecap Dakota First Nation Land Register”** means the register that is established and maintained by the First Nation pursuant to the terms of this Land Code.

Paramountcy

3.2 If there is an inconsistency between this Land Code and any other Land Law, Land Resolution or bylaw of the Whitecap Dakota First Nation, this Land Code prevails to the extent of the inconsistency.

Non-abrogation

- 3.3 This Land Code does not abrogate or derogate from any Aboriginal, Treaty or other rights or freedoms that pertain to the Whitecap Dakota First Nation or its Members.

Special Relationship

- 3.4 This Land Code does not abrogate the special relationship between Her Majesty, the Queen in Right of Canada and the Whitecap Dakota First Nation and its Members.

Number of days

- 3.5 Where there is a reference to a number of days between two events, in calculating that number of days the day on which the first event happens is excluded and the day on which the second event happens is included.

Number

- 3.6 Words in the singular include the plural and words in the plural include the singular.

## 4. Authority

Authority

- 4.1 The power of Whitecap Dakota First Nation to govern and administer its lands flows from the Creator to the Members of the Whitecap Dakota First Nation, and from the Members to their Chief and Council according to custom and law.

## 5. Purpose

Purpose

- 5.1 The purpose of this Land Code is to set out the principles, rules and structures that apply to Whitecap Dakota First Nation Lands and resources and by which the Whitecap Dakota First Nation will exercise authority in accordance with the *Framework Agreement* and the *First Nations Land Management Act*.

## 6. Description of Whitecap Dakota First Nation Lands

Whitecap Dakota First Nation Lands

- 6.1 The Whitecap Dakota First Nation lands that are subject to this Land Code are those lands:

- (a) shown on a copy of the Reference Plan prepared by the Office of the Surveyor General of Canada, Natural Resources Canada, attached as Annex “C” of the Individual Agreement, as amended from time to time; and
- (b) those other reserve lands as may be described in the Individual Agreement as amended from time to time.

## **7. Lands and Interests Affected**

Nature of lands and interests

- 7.1 A reference to “land” or to “Whitecap Dakota First Nation Lands” in this Land Code means all the rights and resources that belong to the land, and includes:
- (a) the water, beds underlying water, riparian rights, aboriginal or Treaty rights, and renewable and non-renewable natural resources belonging to that land, to the extent that these are under the jurisdiction of Canada or the First Nation; and
  - (b) all the Interest and Licences granted by Her Majesty in Right of Canada listed in the Individual Agreement.

## **8. Law-Making Powers**

Council may make laws

- 8.1 The Council may, in accordance with this Land Code, make laws respecting the development, conservation, protection, management, use and possession of Whitecap Dakota First Nation Lands, and the granting of Interests and Licences in relation to these lands (“Land Laws”). This power includes the power to make laws in relation to any matter necessary or ancillary to the making of laws in relation to Whitecap Dakota First Nation Lands including the development of Strata Ownership Laws and Development Levy Laws.

## **9. Law-Making Procedure**

Introduction of land laws

- 9.1 A proposed Land Law may be introduced by a member of the Council, the Lands Advisory Committee or by any Member at a duly convened meeting of the Council.

Procedure

- 9.2 The following procedures must be followed for the introduction of a Land Law:
- (a) A proposed Land Law must be in writing;

- (b) A written request to be placed on the agenda, along with a written copy of the proposed Land Law, must be provided to the Council 14 days prior to the duly convened meeting at which it is to be introduced; and
- (c) The proposed Land Law must be introduced at the duly convened meeting, or at any subsequent meeting deemed appropriate by the Council.

Explanation

- 9.3 The Council may require the member of Council, the Lands Advisory Committee or the Member introducing the proposed Land Law to explain how the law would benefit the community.

Land Advisory Committee  
to review

- 9.4 Following the introduction of the proposed Land Law, if not done already, the proposed Land Law shall be provided to the Lands Advisory Committee for review and comment. The Lands Advisory Committee shall provide any comments to the Council on the proposed Land Law.

Proposed law to be provided to Mortgagees

- 9.5 Following the introduction of a proposed Land Law or an amendment to a Land Law or an amendment to this Land Code deemed to affect a mortgagee's security, the proposed Land Law shall be provided to any mortgagees for review and comment. The mortgagees shall provide any comments on the proposed Land Law or an amendment to a Land Law or a proposed amendment to this Land Code prior to approval by Council or, in the case of amendments to this Land Code, in accordance with any ratification law.

Tabling and posting  
of proposed land laws

- 9.6 A proposed Land Law will not be approved by the Council unless it is;
  - (a) introduced at a meeting of the Council held at least 30 days before the Land Law is to be considered for the approval of the Council;
  - (b) posted in the administrative offices of the First Nation in a location to which the public has access and in any other public places on Whitecap Dakota First Nation Lands that the Council deems appropriate at least 21 days before the Land Law is to be considered for the approval of the Council;
  - (c) published in the community newsletter or distributed to Eligible Voters at least ten working days before it is to be considered for the approval of the Council;



- (d) reviewed by the Lands Advisory Committee; and
- (e) in compliance with this Land Code.

Members Comments

- 9.7 Members shall be entitled to provide written comments to the Council on the proposed Land Law prior to the Land Law being considered for the approval of the Council. The Council shall consider such comments prior to the Land Law being approved by the Council.

Public health or Safety

- 9.8 The Council may enact a Land Law without the procedures required under this Article 9, if the Council is of the opinion that the law is needed urgently in the interests of public health and safety. As soon as reasonably possible after the enactment of such a Land Law the Council must, if not already done, have the Land Law reviewed by the Lands Advisory Committee, post and publish the Land Law as required by subsections 9.5(b) and (c) and consider any comments received from a Member. If deemed necessary the Council may amend the Land Law.

Approval of land law  
by Council

- 9.9 Subject to section 10.1, a Land Law is enacted if, at a duly convened meeting, where a quorum of a Council is present, a quorum of the Council vote in favour of the Land Law, or in the case of a conflict, preventing the Council from voting on a proposed Land Law under the rules set out in Article 24, the Land Law is approved by the Members in accordance with section 24.4.

Certification of land laws

- 9.10 The original copy of any Land Law concerning Whitecap Dakota First Nation Lands shall be signed by at least a quorum of the Council present at the meeting at which it was approved.

## **10. Limits on Law-Making Power**

Community approval  
of land use plan, etc.

- 10.1 The Council shall not enact the following unless community approval by a Community Lands Meeting Vote or by a Ratification Vote, as provided for in this Land Code, is received:
- (a) a land use plan;
  - (b) the law on community expropriation referred to in section 25.3;

- (c) any other law that specifies that it requires community approval by a Community Lands Meeting Vote or by a Ratification Vote under this Land Code or any other Land Law.

## **11. Publication of Land Laws**

### Publication

- 11.1 All Land Laws shall be recorded in the minutes of the Council.

### Posting land laws

- 11.2 Within seven days of a Land Law being enacted, the Council shall post a copy of the law in the administrative offices of the Whitecap Dakota First Nation in an area to which the public has access, for a period of at least 30 days.

### Registry of laws

- 11.3 The Council shall maintain, at the administrative office of Whitecap Dakota First Nation, a register of, as well as an original copy of all Land Laws enacted, including the date a Land Law was enacted, became enforceable, amended, repealed, replaced or no longer in force.

### Public Access

- 11.4 Any person may have reasonable access to the register of laws during the normal business hours of the First Nation in the administrative offices of the Whitecap Dakota First Nation.

### Copies for any person

- 11.5 Any person may obtain a copy of a Land Law on payment of a reasonable fee set under resolution of the Council from time to time.

## **12. Commencement of Laws**

### Laws In force

- 12.1 A Land Law comes into force on the date of its enactment or such later date as specified by or under the Land Law.

## **13. Land Management Powers**

### Authority to make dispositions

- 13.1 Subject to Article 14, the Whitecap Dakota First Nation, acting through the Council, may grant Interests and Licences in Whitecap Dakota First Nation Lands, including, but not limited to leases, permits, easements and rights-of-ways. This includes the right to grant Interests in or Licences to take resources

including, but not limited to, cutting timber or removing minerals, oil, gases, stone, sand, gravel, clay, soil or other substances.

## **14. Limits on Interests and Licences**

All dispositions in writing

- 14.1 Subject to Article 15, an Interest in, or Licence to use, Whitecap Dakota First Nation Lands may only be created, granted, disposed of, assigned or transferred by a written Land Resolution, approved by the Council, in accordance with this Land Code.

Approval of land resolution by Council

- 14.2 A Land Resolution is passed if, at a duly convened meeting, where a quorum of a Council is present, a quorum of the Council vote in favour of the Land Resolution, or in the case of a conflict, preventing the Council from voting on a proposed Land Resolution under the rules set out in Article 23, the Land Resolution is approved by the Members in accordance with section 23.4.

Existing dispositions

- 14.3 Dispositions of Whitecap Dakota First Nation Lands in existence, whether allocated pursuant to the Indian Act, the Whitecap Dakota First Nation Land Code, the custom of the First Nation or otherwise, shall continue in existence, in accordance with and under the same terms and conditions as the document evidencing such disposition.

Grant to any person

- 14.4 Subject to sections 14.5 and 14.6 or any Land Law, the Council can allocate or grant an Interest in or a Licence to use Whitecap Dakota First Nation Lands to any person.

Allocation of lots

- 14.5 Community approval is not required for the allocation or granting of residential lots to Members.

Community approval of disposition

- 14.6 Subject to section 14.5, community approval by a Community Lands Meeting Vote must be obtained for the following:
- (a) any grant or disposition of an Interest in or Licence to use Whitecap Dakota First Nation Lands, other than for residential purposes, exceeding a term of 99 years;

- (b) any grant or disposition of an interest in or Licence to use Whitecap Dakota First Nation Lands for residential purposes exceeding a term of 99 years;
- (c) any renewal of an Interest in or Licence to use Whitecap Dakota First Nation Lands that extends the original term beyond 99 years; or
- (d) any grant or disposition of any Interest or Licence relating to natural resources on Whitecap Dakota First Nation Lands exceeding a term of 20 years.

Improper transactions void

- 14.7 An Interest, Licence, deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which Whitecap Dakota First Nation, a Member or any other person that purports to grant, dispose of, transfer or assign an Interest in or Licence to use Whitecap Dakota First Nation Lands after the date the initial Land Code came into force is void if it is not authorized in accordance with this Land Code.

Resources not included

- 14.8 The grant of an Interest in or Licence to use Whitecap Dakota First Nation Lands, unless the instrument evidencing such Interest or Licence indicates otherwise, does not entitle the holder of the Interest or Licence or any one else claiming an interest or right granted to them by such holder, to benefit from the resources located in, under or upon the affected Whitecap Dakota First Nation Lands.

## **15. Transfer and Assignment of Dispositions**

Approval of transfer

- 15.1 Subject to section 15.3, a transfer or assignment of an Interest or Licence in Whitecap Dakota First Nation Lands is void and unenforceable unless firstly approved in writing by the Council.

Restrictions on assignment  
or further grant

- 15.2 Subject to 15.3, the grant of any Interest or Licence in Whitecap Dakota First Nation Lands, shall be deemed to include a provision that the grant shall not be transferred or assigned or any other interest subsequently granted under the Interest or Licence without the written consent of the Council.

Consent to assignment deemed  
to be given to mortgagee

- 15.3 Subject to the requirements of section 17.4, Whitecap Dakota First Nation's consent to any charge or mortgage is deemed to include consent to the right of

the mortgagee to exercise any power of sale, assignment, transfer or any remedy available with respect to the leasehold interest under the mortgage.

Registration

- 15.4 For greater certainty, registration of the original written consent referred to in this Article is still required under Article 17.

**16. Marketable Residential Leases**

- 16.1 The First Nation, acting through the Council, may grant a Marketable Residential Lease to any person for a term not to exceed 99 years.
- 16.2 Notwithstanding any other provision of this Land Code, if Council has consented to the original grant of a Marketable Residential Lease then that Marketable Residential Lease may subsequently be transferred, sold, assigned, mortgaged or otherwise disposed of without the consent of Council or approval of Members.

Inapplicable provisions -  
Market Residential Leases

- 16.3 The provisions of Articles 13 (authority to make dispositions), 14 (limits of interests and licenses), 15 (transfers and assignments of dispositions), 14.2 (limits on mortgages), 17.2 (limits on mortgages), 17.4 (enforcement of charge or mortgage) and 17.5 – 17.7 (power of redemption) or any laws or regulations enacted under these sections will not apply to Market Residential Leases or any sub-leases, licenses, interests, permits or mortgages of such Marketable Residential Leases granted by the holders of such sub-leases, licenses, interests, permits or mortgages.

Mortgages of Marketable  
Residential Leases

- 16.4 No consent of Council is required for the granting of a charge or a mortgage securing a Marketable Residential Lease.

Enforcement of charge  
or mortgage

- 16.5 Notwithstanding anything in section 17, a charge or mortgage of a Marketable Residential Lease is subject to seizure, attachment, distress, foreclosure or any other form of execution. Mortgagees shall have the right without consent of the Council or Members to freely exercise all remedies available under the charge or mortgage, including the registration of any assignment or transfer in the First Nations Land Register and Whitecap Dakota First Nation Land Register pursuant to section 18.

Right of Redemption

- 16.6 Any charge or mortgage of a Marketable Residential Lease shall be deemed to include a provision that the mortgagor, holder or interest, licensee or the First Nation shall have the right to redeem the charge or mortgage within 120 days from the date of default under the mortgage or loan, following which the right of redemption shall no longer be in effect.

## 17. Limits on Mortgages and Seizures

### Protections

- 17.1 In accordance with the *Framework Agreement*, section 29, section 87 and subsections 89(1) and (2) of the *Indian Act* continue to apply to Whitecap Dakota First Nation Lands.

### Limits on mortgages

- 17.2 Subject to sections 17.3 and 17.4, a leasehold interest in Whitecap Dakota First Nation Lands is subject to charge, mortgage, attachment, levy, seizure, distress and execution, for a term not exceeding the term of the Interest or Licence.

### Exception

- 17.3 The term of any charge or mortgage shall not exceed 30 years, unless it receives the written consent of the Council and community approval by a Community Lands Meeting Vote has been given.

### Enforcement of charge or mortgage

- 17.4 A charge or mortgage of a leasehold interest is not subject to seizure, attachment, distress, foreclosure or any other form of execution, unless:
- (a) the charge or mortgage was consented to by the Council;
  - (b) the charge or mortgage was registered in the Whitecap Dakota First Nation Land Register;
  - (c) a reasonable opportunity for at least a period of 120 days from the date of default was given to the mortgagor, holder of the Interest or Licence and to the First Nation to redeem the charge or mortgage. ; and
  - (d) any conditions required by the Council as part of their consent to the charge or mortgage have been complied with by the holder of the charge or mortgage.

### Power of redemption

- 17.5 A charge or mortgage of a leasehold interest shall be deemed to include a provision that the First Nation shall have the right to redeem the charge or mortgage in the event of default under the charge or mortgage.

First Nation becomes  
Charger or mortgagor

- 17.6 If the First Nation exercises its power of redemption, the Whitecap Dakota First Nation shall be deemed to have become the holder of the Interest or Licence and shall take the position of the chargor or mortgagor for all purposes after the date of the redemption.

Registration of Assignment  
in Register

- 17.7 If the First Nation does not exercise its power of redemption, the lender or mortgagee shall have the ability to exercise all remedies available under the mortgage including the registration of any assignment of the Interest or Licence in Whitecap Dakota First Nation Lands in the Whitecap Dakota First Nation Land Register pursuant to Article 18.

## **18. Registration of Dispositions**

Duty to maintain  
duplicate register

- 18.1 The Council shall establish and maintain a land register, to be known as the Whitecap Dakota First Nation Land Register, in form and content the same as the First Nations Land Register.

Enforcement of interests and  
licences

- 18.2 An Interest or Licence in Whitecap Dakota First Nation Lands created or granted after this Land Code comes into effect or transfer or assignment of such Interest or Licence is not enforceable against a third party, the Whitecap Dakota First Nation or a Member, unless it is first registered in the Whitecap Dakota First Nation Land Register.

Enforcement of mortgages  
and charges

- 18.3 A charge or mortgage of a leasehold interest in Whitecap Dakota First Nation Lands or in a building located on Whitecap Dakota First Nation Lands under an Interest or Licence granted after this Land Code comes into effect, is not enforceable unless it is first registered in the Whitecap Dakota First Nation Land Register.

Registration of  
consent or approval

- 18.4 No instrument evidencing an Interest or Licence or a transfer and assignment of an Interest or Licence, that requires consent of the Council, or community approval by a Community Lands Meeting Vote or by a Ratification Vote, may be

registered unless a document evidencing such consent or approval is attached to the instrument.

Rules

- 18.5 The Council may make rules respecting the administration of the Whitecap Dakota First Nation Land Register, the registration of Interests and Licences in it and the recording of any other matter, including but not limited to rules respecting:
- (a) the effects of registering Interests and Licences, including priorities;
  - (b) the payment of fees for the registration of Interests and Licences and for any other service in relation to the register; and
  - (c) the appointment, remuneration, powers, functions and duties of officers and employees who administer the register.

Duty to deposit

- 18.6 The Council shall ensure that an original copy of the following instruments is deposited in the First Nations Land Register:
- (a) any grant of an Interest or Licence in Whitecap Dakota First Nation Lands;
  - (b) any transfer or assignment of an Interest or Licence in Whitecap Dakota First Nation Lands;
  - (c) any expropriation of an Interest or Licence in Whitecap Dakota First Nation Lands by Whitecap Dakota First Nation
  - (d) every land use plan, subdivision plan or resource use plan; and
  - (e) this Land Code and any amendment to this Land Code.
- 18.7 If it is in the best interests of the First Nation to do so, the Council may consider and make arrangements with the Province and any corporation to develop an alternative land registry system to administer the creation of, granting of and registration of Interests and Licences including the administration of other matters set forth in this Article.
- 18.8 Notwithstanding any other provision of this Article, the First Nations Land Register shall be deemed to have priority over the Whitecap Dakota First Nation Land Register.



## **19. Member Lots and Resources**

### Allocation by Council

- 19.1 Subject to section 19.2 and any Land Law, residential lots are to be allocated by the Council.

### Allocation of lots

- 19.2 The allocation to Members of available residential lots and the procedures for the allocation shall be developed and recommended by the Lands Advisory Committee and approved by the Council.

### Rights to resources

- 19.3 The allocation of an Interest in a residential lot does not entitle the Member to benefit from the resources located in, under or upon the land.

## **20. Residency and Access Rights**

### Right of residence

- 20.1 Subject to sections 20.3 and 20.4, the following persons have a right to reside on Whitecap Dakota First Nation Lands:
- (a) Members, their spouses, and their children; and
  - (b) a holder of an Interest or Licence, in accordance with the provisions of the instrument granting the Interest or Licence.

### Right of access

- 20.2 Subject to sections 20.3 and 20.4, the following persons, provided they comply with all applicable laws and they do not trespass on occupied land or interfere with any Interest or Licence granted in Whitecap Dakota First Nation Lands, have a right to access Whitecap Dakota First Nation Lands:
- (a) Members, their spouses and their children;
  - (b) a holder of an Interest or Licence and those granted a right of access under the Interest or Licence;
  - (c) Permittees and those granted a right of access under the permit;
  - (d) A person who is authorized by a government body or any other public body, established by or under an Act of Parliament, or an Act of the legislature of the province or a law of the Whitecap Dakota First Nation to perform a public function, to establish, operate or administer a public

service, to construct or operate a public installation, or to conduct a technical survey;

- (e) a person accessing Whitecap Dakota First Nation Lands for social, recreational or business purposes; or
- (f) a person authorized by a resolution of the Council, or by a Whitecap Dakota First Nation law.

Denial of access

- 20.3 Subject to section 20.4, the Council may, for valid and fair reasons, deny or restrict the right to reside on or to access Whitecap Dakota First Nation Lands to any person if, at a duly convened meeting a quorum of the Council vote in favour of a resolution denying or restricting such right of the person.

Denial to Members

- 20.4 The Council may not deny or restrict the right to reside on or to access Whitecap Dakota First Nation Lands to a Member unless such denial or restriction receives community approval in accordance with Article 30 of this Land Code.

Trespass

- 20.5 Any person who resides on, enters, or remains on Whitecap Dakota First Nation Lands other than in accordance with a residence or access right under this Land Code is guilty of an offence.

Civil remedies

- 20.6 All civil remedies for trespass are preserved.

## **21. Lands Advisory Committee**

Committee established

- 21.1 The Council shall, by resolution, establish a Whitecap Dakota Lands Advisory Committee to advise Council on land matters.

Composition

- 21.2 The Lands Advisory Committee shall be composed of the following:
- (a) 5 members, all of whom must be Eligible Voters; and
  - (b) one member of Council with ex-officio status.

Appointments by Council

21.3 Members of the Lands Advisory Committee shall be appointed by the Council, in accordance with this Article.

Conflict of interest

21.4 Because of possible conflicts of interest in the community, not more than one Member from the same Immediate Family may be a member of the Lands Advisory Committee.

Eligibility to be a Land Advisory  
Committee Member

21.5 Any Eligible Voter, whether resident on or off Whitecap Dakota First Nation Lands, is eligible for appointment to the Lands Advisory Committee, except for the following persons:

- (a) any person convicted of an offence that was prosecuted by way of indictment in the past 5 years;
- (b) any person convicted of a corrupt practice in connection with accepting a bribe, dishonesty or wrongful conduct; and
- (c) any person declared to be mentally incompetent by a court of competent jurisdiction in Canada or elsewhere.

Term of office

21.6 The length of the term of office for a member of the Lands Advisory Committee is 3 years from the date of appointment.

Selection law

21.7 The Council may establish procedures for the selection of members to the Lands Advisory Committee, provided such procedures are not inconsistent or in conflict with this Land Code.

Vacancy of Lands  
Advisory Committee

21.8 The office of a member of the Lands Advisory Committee becomes vacant if the person, while holding office,

- (a) becomes ineligible to hold office in accordance with section 21.5;
- (b) dies;
- (c) resigns;
- (d) fails to fulfill their obligations and duties required by this Land Code, upon the determination of the Land Advisory Committee;

- (e) fails to disclose a conflict of interest in accordance with section 24.2;
- (f) is convicted with an indictable offence;
- (g) ceases to be a Member; or
- (h) is absent for 3 consecutive meetings of the Lands Advisory Committee without being authorized to do so by the Lands Advisory Committee.

Vacancy in term

- 21.9 Where a position of the Lands Advisory Committee becomes vacant for more than 90 days before the date when another selection would ordinarily be held, a special selection may be made in accordance with this Land Code, as the case may be, to fill the vacancy.

Balance of term  
of office

- 21.10 A member of the Lands Advisory Committee selected to fill a vacancy remains in office for the balance of the term of the member of the Lands Advisory Committee he or she is replacing.

## **22. Duties of the Land Advisory Committee**

Terms and Duties

- 22.1 The Council may, by resolution, establish the terms and duties of the Lands Advisory Committee members and the procedures to be followed by the Lands Advisory Committee, provided they are not inconsistent or in conflict with this Land Code.

Procedures

- 22.2 The Lands Advisory Committee may make its own rules of procedure not inconsistent or in conflict with this Land Code or with those established by the Council.

Role of the Lands  
Advisory Committee

- 22.3 The Lands Advisory Committee shall advise the Council on the enacting of Land Laws, the granting of Interests or Licences and the development of policies and procedures as they relate to Whitecap Dakota First Nation Lands.

Delegation of powers

- 22.4 The Council may delegate any of its land management powers under this Land Code to the Lands Advisory Committee. Such delegation shall be in writing, must be approved by a quorum of the Council at a duly convened meeting and must

be posted in the administrative offices of the First Nation to which the public has access.

Development of land related policies

- 22.5 Within a reasonable time after this Land Code comes into force, the Lands Advisory Committee shall, in consultation with the community, develop policies that address the following matters:
- (a) environmental protection and assessment in relation to Whitecap Dakota First Nation Lands;
  - (b) any outstanding issues on the resolution of disputes in relation to Whitecap Dakota First Nation Lands;
  - (c) land use planning; and
  - (d) any other matter requested by the Council.

Rules on Breakdown of Marriage

- 22.6 The Lands Advisory Committee shall ensure that general rules and procedures, in cases of the breakdown of a marriage, respecting the use, occupation and possession of Whitecap Dakota First Nation Lands and the division of Interests in such lands continue as enacted in a Land Law. The Land Advisory Committee shall revise the existing Land Law from time to time as it sees fit, in consultation with the community.

Expropriation Laws

- 22.7 Within a reasonable time of being requested to do so by the Council, the Lands Advisory Committee shall, in consultation with the community, develop procedures governing the expropriation of Whitecap Dakota First Nation Lands, the entitlement to, determination of and payment of compensation and the resolution of disputes concerning the right to expropriate and to address compensation issues.

Consultation process

- 22.8 In fulfilling its obligation to consult with the community as required in sections 22.5, 22.6 and 22.7 the Lands Advisory Committee shall make efforts to ensure the Members are informed of such policies and rules and procedures by mailing information to the Members, by holding meetings with the Members or by undertaking any other form of consultation as the Council may consider appropriate in the circumstances.

Implementation of policies

- 22.9 The policies and the rules and procedures developed by the Lands Advisory Committee pursuant to sections 22.5, 22.6 and 22.7 shall be presented to the Council for consideration and implementation as Land Laws, Land Resolutions or as amendments to this Land Code, whichever is deemed by the Council to be most appropriate.

### **23. Meetings of the Lands Advisory Committee**

#### Chairperson

- 23.1 The member of Council appointed under Section 21.2 shall be the Chair of the Lands Advisory Committee.

#### Functions of the Chairperson

- 23.2 The duties of the Chairperson are as follows:
- (a) to chair meetings of the Lands Advisory Committee; and
  - (b) to report to the Whitecap Dakota First Nation on the activities of the Lands Advisory Committee.

#### Alternate Chairperson

- 23.3 If the Chairperson is unable to perform the functions of office, either temporarily or on a long term basis, Council will appoint another Council member to be the Chairperson for the relevant period.

#### Quarterly meetings

- 23.4 The Lands Advisory Committee shall meet at least once every three months, provided that the committee shall meet at any time requested by the Council.

#### Rules for meetings

- 23.5 Meetings of the Lands Advisory Committee shall be conducted in accordance with the following procedure:
- (a) Whenever possible, all meetings shall be held on Whitecap Dakota First Nation Lands provided that a meeting may be conducted by telephone or other facility which permits each member of the Lands Advisory Committee in attendance to communicate with all other members of the committee at the meeting;
  - (b) The Chairperson shall chair the meetings but shall not, in any event, vote at the meetings;

- (c) The quorum for meetings of the Lands Advisory Committee shall be a majority of the members on the committee;
- (d) All decisions and actions of the Lands Advisory Committee shall be in accordance with a majority vote; and
- (e) Written minutes of the proceedings at each meeting will be kept and the minutes of the preceding meeting approved or revised at the commencement of each meeting.

Access to minutes

- 23.6 Any person may obtain a copy of the minutes of a Lands Advisory Committee meeting on payment of a reasonable fee set under resolution of the Council from time to time.

Council attendance

- 23.7 Any member of the Council may attend any meeting of the Lands Advisory Committee.

Members Attendance

- 23.8 Any Member, with prior written notice to the chairperson of the Lands Advisory Committee, provided they conduct themselves in an appropriate and professional manner, shall have the right, at their own expense, to attend a meeting of the Lands Advisory Committee as an observer.

## **24. Conflict of Interest**

Conflict of interest

- 24.1 This Article applies to
- (a) each member of the Council who is dealing with any matter before Council that is related to Whitecap Dakota First Nation Lands;
  - (b) each member of the Lands Advisory Committee;
  - (c) each member of a dispute resolution body established under the terms of this Land Code;
  - (d) each person who is an employee of the Whitecap Dakota First Nation dealing with any matter that is related to Whitecap Dakota First Nation Lands; and
  - (e) each person who is a member of a board, committee or other body duly established by the Whitecap Dakota First Nation dealing with any matter that is related to Whitecap Dakota First Nation Lands.

Duty to report and abstain

- 24.2 If a member of the Council, the Lands Advisory Committee, a dispute resolution body or an employee of the Whitecap Dakota First Nation or member of a board, committee or other body of the First Nation dealing with any matter that relates to Whitecap Dakota First Nation Lands has any interest, financial or otherwise, in the matter being dealt with that might involve the person or his or her Immediate Family, the person shall:
- (a) disclose the interest to the Council, or the board, committee or other body as the case may be and such disclosure shall be recorded in the minutes of the meeting at which such disclosure is given; and
  - (b) not take part in any discussions or deliberations on that matter, shall leave the meeting during those discussions or deliberations and shall not vote on that matter.

Common interests

- 24.3 This Article does not apply to any interest that is held by a Member in common with every other Member.

Meeting of Eligible Voters

- 24.4 If a quorum of the Council is not attainable to vote on a proposed Land Law or to determine whether to grant an Interest or Licence due to a conflict of interest, the Council may refer the matter to a Community Lands Meeting for community approval in accordance with Article 30 of this Land Code.

Inability to act

- 24.5 If, as a result of a conflict of interest, a quorum of the Lands Advisory Committee, or of any other board, committee or other body, is unattainable, the matter shall be referred to the Council for their consideration.

Specific conflict Situation

- 24.6 Because of possible conflicts of interest in the community, not more than one member from the same Immediate Family may be a member of a board, committee or other body dealing with any matter that is related to Whitecap Dakota First Nation Lands.

Other laws

- 24.7 For greater certainty, the Council may enact laws to further implement this Article, provided such laws are not inconsistent or in conflict with this Land Code.



## 25. Taking Land for Community Purposes

Rights and interest  
that may be expropriated

25.1 An Interest or Licence in Whitecap Dakota First Nation Lands, or in any right, interest or building or other structure on those lands, may only be expropriated by the Whitecap Dakota First Nation in accordance with the *Framework Agreement* and any Land Law enacted for the purpose of establishing the rights and procedures for such expropriations.

Community purposes

25.2 A community expropriation may only be made for necessary community purposes or works of the Whitecap Dakota First Nation, including but not in any way limited to a fire hall, sewage or water treatment facility, community centre, public works, roads, schools, day-care facility, hospitals, health-care facility, and retirement home.

Expropriation laws

25.3 Before proceeding to make any community expropriation in accordance with this Land Code, the Council shall make fair and reasonable laws respecting the rights and procedures for community expropriations, including laws respecting:

- (a) procedures governing expropriation, including the taking of possession, compulsory taking of possession and transfer of the right or interest, notice of expropriation and service of notice of expropriation;
- (b) entitlement to compensation, determination of the amount of compensation and the method of payment of compensation; and
- (c) a mechanism for the resolution of disputes concerning the right of the Whitecap Dakota First Nation to expropriate an Interest or Licence, disputes concerning the right of a holder of an expropriated Interest or Licence to compensation and disputes concerning the amount of compensation to be paid for the expropriated Interest or Licence.

Rights that may not  
be expropriated

25.4 An Interest or Licence held by Her Majesty the Queen in right of Canada is not subject to expropriation by the Whitecap Dakota First Nation.

Acquisition by mutual  
agreement

25.5 The right of Whitecap Dakota First Nation to expropriate can only be exercised after a good faith effort to acquire, by mutual agreement, the Interests or Licence in Whitecap Dakota First Nation Lands.

Compensation for rights and interests

25.6 Whitecap Dakota First Nation shall, in accordance with its laws and the *Framework Agreement*, do the following:

- (a) serve reasonable notice of the expropriation on each affected holder of rights or interests in the Interest or Licence to be expropriated; and
- (b) pay fair and reasonable compensation to the holders of the rights or interests in the expropriated land based on the heads of compensation set out in the *Expropriation Act (Canada)*.

## 26. Voluntary Land Exchanges and Protections

Land exchange

26.1 Whitecap Dakota First Nation may agree with another party to exchange a parcel of Whitecap Dakota First Nation Lands for a parcel of land from that other party in accordance with this Land Code and the *Framework Agreement* and the *First Nations Land Management Act*.

Negotiators

26.2 The Council, by resolution, will appoint the person or persons who will have the authority to negotiate a land exchange agreement on behalf of the Whitecap Dakota First Nation.

Community approval

26.3 Any exchanges of Whitecap Dakota First Nation Lands must be submitted for community approval by Ratification Vote in accordance with this Land Code before the land exchange agreement becomes valid and binding on the First Nation.

Land to be received

26.4 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 Whitecap Dakota First Nation Lands to be exchanged and it must be at least comparable to the appraised value of the Whitecap Dakota First Nation Lands; and
- (b) it must become a reserve and subject to this Land Code.

Additional land

26.5 The Whitecap Dakota First Nation may negotiate to receive one or more other parcels of land as compensation, in addition to the parcel referred to above which

is intended to become a reserve. The other parcels may be held by the Whitecap Dakota First Nation or its agent in fee simple or some other manner.

Federal consent

- 26.6 Before Whitecap Dakota First 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 referred to in section 26.4, as of the date of the land exchange or such later date as the Council may specify by resolution; and
  - (b) consents to the technical aspects of the exchange as set out in the exchange agreement.

Community notice

- 26.7 Once negotiations on the land exchange agreement are concluded, the Council shall provide the following information to Eligible Voters at least 30 days before the Ratification Vote:
- (a) a description of the Whitecap Dakota First Nation Lands 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 in section 26.4 have been met;
  - (e) a copy and summary of the exchange agreement; and
  - (f) a copy of the written statement from Canada referred to in section 26.6.

Process for land exchange

- 26.8 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 Whitecap Dakota First Nation Lands 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 Registry.

## 27. Financial Controls and Accountability

### Application

- 27.1 This Article applies only to financial matters relating to Whitecap Dakota First Nation Lands.

### Establishment of bank accounts

- 27.2 The Council shall maintain one or more financial accounts at a financial institution that is a member institution to which the Canada Deposit Insurance Corporation has a duty to insure deposits pursuant to the *Canada Deposit Insurance Corporation Act*, R.S.C. 1985, c. C-3, as amended, and shall deposit in those accounts the following amounts:

- (a) payments received from Canada for the management and administration of Whitecap Dakota First Nation Lands pursuant to the Individual Agreement or otherwise;
- (b) moneys received by the Whitecap Dakota First Nation from the grant or disposition of any Interests or Licences in Whitecap Dakota First Nation Lands;
- (c) all fees, fines, charges and levies collected under this Land Code or a Land Law or Land Resolution;
- (d) all capital and revenue moneys received from Canada from the grant or disposition of any Interests and Licences in Whitecap Dakota First Nation Lands pursuant to the Individual Agreement; and
- (e) any other land revenue received by Whitecap Dakota First Nation.

### Signing officers

- 27.3 The Council shall authorize at least four persons, three of whom shall be members of the Council, and one delegated senior staff member, to sign cheques and other bills of exchange or transfer drawn on the account or accounts to be maintained by the Council under section 27.2.

### Two signatures

- 27.4 To be valid, a cheque or other bill of exchange or transfer drawn on any account maintained by the Council under section 27.2 must be signed by two signing officers.

Fiscal year

- 27.5 The fiscal year of the Whitecap Dakota First Nation begins on April 1 of each year and ends on March 31 of the following year.

Adoption of budget

- 27.6 The Council shall, by resolution, adopt a land management budget for that fiscal year and may, if the Council deems it necessary in the course of the fiscal year, adopt supplementary budgets for that fiscal year.

Procedure

- 27.7 After adopting the land management budget the Council shall, without undue delay, make a copy of the consolidated land management budget available at the administrative offices of the Whitecap Dakota First Nation for inspection by Members during the normal business hours of the First Nation.

If no budget

- 27.8 If the Council fails to adopt a land management budget for a fiscal year, the budget and any supplementary budgets of the previous fiscal year apply until a new budget is adopted.

Budget rules

- 27.9 The Council may make rules respecting the preparation and implementation of land management budgets, provided such rules are not inconsistent or in conflict with this Land Code.

Expenditures

- 27.10 The Council may not expend moneys or commit itself, by contract or otherwise, to expend moneys, unless such expenditure is authorized by or under a Land Law or an approved budget.

Books of account and financial records

- 27.11 Whitecap Dakota First Nation shall keep books of account and financial records in accordance with Canadian generally accepted accounting principles.

Access to books and records

- 27.12 A member of the Council, an Eligible Voter or any person authorized by the Council may, with prior written notice, during the normal business hours of the First Nation, inspect the land related books of account and land related financial records of the Whitecap Dakota First Nation.

Offences

- 27.13 A person is guilty of an offence if the person

- (a) impedes or obstructs anyone from exercising their right to inspect the books or account or financial records of the Whitecap Dakota First Nation; or
- (b) has control of the books or account or financial records of the Whitecap Dakota First Nation and fails to give all reasonable assistance to any one exercising their right to inspect those books or records.

Preparation of financial statements

27.14 Within 30 days after the end of each fiscal year, the Whitecap Dakota First Nation shall have prepared and provided to the auditor financial statements in comparative form in accordance with Canadian generally accepted accounting principles or in accordance with disclosed basis of accounting, regarding the land related financial records of the First Nation, containing at a minimum, the following:

- (a) a balance sheet;
- (b) a statement of revenues and expenditures and a comparison of these with amounts stated in the land management budget and any supplementary budgets; and
- (c) any other information necessary for a fair presentation of the financial position of the Whitecap Dakota First Nation.

Consolidated accounts

27.15 The accounting and auditing requirements of this Land Code may be done together with, and consolidated with, the other accounts of the Whitecap Dakota First Nation.

## **28. Appointment of Auditor**

Appointment of auditor

28.1 For each fiscal year, a duly accredited auditor shall be appointed by the Council for the audit of the land related financial records of Whitecap Dakota First Nation. The auditor may be the same auditor appointed by the Council to audit the non-land related financial records of the First Nation.

Holding office

28.2 The auditor appointed under this Article holds office until re-appointed, or until a new auditor is appointed

Vacancy in office

- 28.3 Where a vacancy occurs during the term of an auditor, the Council shall forthwith appoint a new auditor for the remainder of the former auditor's term and shall fix the auditor's remuneration.

Remuneration

- 28.4 The auditor's remuneration shall be fixed by the Council and shall be paid by Whitecap Dakota First Nation out of the payments to be received from Canada under the Individual Agreement or out of the First Nation's general revenues.

Duty of auditor

- 28.5 The auditor shall, within 120 days after the end of Whitecap Dakota First Nation's fiscal year, audit the financial statements regarding the land related financial records of the Whitecap Dakota First Nation, in accordance with Canadian generally accepted auditing standards and prepare and submit to the Council, a written report on such financial statements, stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of the Whitecap Dakota First Nation Lands related financial transactions.

Access to records

- 28.6 In order to prepare the report on the Whitecap Dakota First Nation's financial statements, the auditor may at all reasonable times inspect the financial records, accounts, books, minutes, vouchers and receipts of the Whitecap Dakota First Nation and any person or body who administers money on behalf of Whitecap Dakota First Nation.

Explanation of auditor's report

- 28.7 The Council shall present the auditor's report to the Members at a Community Meeting.

Making report available

- 28.8 The Council shall make a copy of the auditor's report available at the administrative offices of the Whitecap Dakota First Nation.

Access

- 28.9 Any Member may have reasonable access to the auditor's report during normal business hours of the First Nation in the administrative offices of the Whitecap Dakota First Nation provided reasonable notice is given.

Copies for Members

- 28.10 Any Member may obtain a copy of the auditor's report on payment of a reasonable fee set by resolution of the Council.

Copies for others

- 27.11 Any person who is not a Member may, with the consent of the Council, obtain a copy of the auditor's report on payment of a reasonable fee set by resolution of the Council.

## **29. Rights of Eligible Voters**

Rights of eligible voters

- 29.1 Each Member who is an Eligible Voter, regardless of where they reside has the right to attend and to vote at a Community Lands Meeting and at a Ratification Vote held under the provisions of this Land Code.

## **30. Procedures for Community Lands Meetings**

Community meeting

- 30.1 Whenever this Land Code or a Land Law requires a Community Lands Meeting, including the Annual Community Lands Meeting under Article 31 of this Land Code, the procedures set out in this Article shall be followed.

Notice to Members

- 30.2 The Council shall call the Community Lands Meeting by giving notice to the Members that:
- (a) is in writing;
  - (b) specifies the date, time and place of the Community Lands Meeting;
  - (c) contains a brief description of the matters to be discussed at the Community Lands Meeting; and
  - (d) if a vote is to be held, advise the Members that a vote will take place at the meeting.

Manner of notice

- 30.3 The notice of a Community Lands Meeting must be given to the Members as follows:
- (a) by posting the notice at least 14 days before the Community Lands Meeting in the administrative office of the First Nation in an area to which the public has access and in any other locations as the Council determine appropriate with the goal of ensuring to the greatest extent possible all Members have notice of the meeting;



- (b) by taking reasonable steps to locate and inform Eligible Voters who reside off-reserve;
- (c) by publishing the notice in the community newsletter; and
- (d) by such additional method as the Council may consider appropriate in the circumstances.

Who may attend

- 30.4 All Members have a right to attend a Community Lands Meeting held under the provisions of this Land Code, but other persons may attend with the permission of the Council.

Minimum for quorum

- 30.5 The Council may, by a Land Law, establish a minimum number or percentage of Eligible Voters who are required to be present as a quorum for the purposes of making a decision at a Community Lands Meeting. Unless otherwise set by the Council there shall be no quorum of Members required to be present for the purposes of making decisions.

Meeting to be held

- 30.6 A meeting shall be held on the date, time and at the place set out in the notice, at which time the Council or the Lands Advisory Committee shall present the matters to be discussed at the meeting and in the event a vote is to be held at the meeting, the following procedures shall be followed:
- (a) the Council or the Lands Advisory Committee shall provide sufficient information to the Eligible Voters in attendance so as to permit the Eligible Voters to make an informed decision on the matter or matters to be voted on;
  - (b) a poll shall be conducted by a member of the Council or a member of the Lands Advisory Committee on each matter in respect of which a vote is to be held.

Voting

- 30.7 Decisions are to be made by a majority vote of the Eligible Voters present at a Community Lands Meeting, by a show of hands or in such other method determined by a Land Law.

Other meetings

- 30.8 The Council may schedule more than one Community Lands Meeting to discuss and decide on a matter that requires a Community Lands Meeting. Where a meeting or matter to be voted upon is postponed for any reason then the

provisions of this Article shall apply to any subsequent Community Lands Meeting called in respect of the same matter or matters.

Other laws

- 30.9 For greater certainty, the Council may make laws respecting Community Lands Meetings, provided such laws are not inconsistent or do not conflict with the provisions of this Article.

## **31. Annual Community Lands Meeting**

Annual community meeting

- 31.1 The Council, on behalf of Whitecap Dakota First Nation, shall call and hold an Annual Community Lands Meeting within 90 days of the receipt of the auditor's report.

Agenda at community meeting

- 31.2 The agenda for each Annual Community Lands Meeting of Whitecap Dakota First Nation shall include the following:
- (a) approval of the minutes of the Annual Community Lands Meeting held the previous year;
  - (b) annual review of land management;
  - (c) presentation of the auditor's report and approval;
  - (d) any other matters proposed by Council; and
  - (e) new business.

Appointment of secretary

- 31.3 The secretary to the Council, or another person designated by the Council, shall take the minutes of the Annual Community Lands Meeting and shall file copies of the minutes with the Whitecap Dakota First Nation Land Register.

## **32. Community Approvals**

Community approval by ratification vote

- 32.1 A Ratification Vote shall be held by Whitecap Dakota First Nation to decide whether to:
- (a) approve the law on community expropriation referred to in section 25.3;

- (b) approve a voluntary exchange of Whitecap Dakota First Nation Lands;
- (c) approve an amendment to this Land Code as required in Article 37; and
- (d) approve any matter provided for by a Land Law requiring approval by a Ratification Vote.

Community approval by  
community meeting

32.2 A Community Lands Meeting shall be held by Whitecap Dakota First Nation to decide whether to:

- (a) approve or amend a land use plan;
- (b) approve a grant or disposition of an Interest or Licence in Whitecap Dakota First Nation Lands as required in section 14.6;
- (c) approve a grant or disposition of resources on Whitecap Dakota First Nation Lands as required in section 14.6;
- (e) approve a charge or mortgage as required in section 17.3;
- (f) deny the right to reside on or to access Whitecap Dakota First Nation Lands to a Member as required in section 20.4;
- (g) enact any Land Law or Land Resolution that the Council is unable to enact pursuant to section 24.4; and
- (h) approve any matter provided for by a Land Law requiring approval by a Community Lands Meeting.

Individual Agreement  
with Canada

32.3 An amendment to, or renewal of, the Individual Agreement with Canada made under clause 6 of the *Framework Agreement* does not require community approval by a Ratification Vote, unless the amendment or renewal reduces the amount of funding provided by Canada.

### **33. Procedures for Ratification Vote**

Community  
Ratification Process

33.1 Any Ratification Vote required under this Land Code shall be conducted in accordance with a Land Law enacted for this purpose.

## **34. Local Dispute Resolution System**

### Mechanism for Dispute Resolution

34.1 Except as otherwise provided in this Part, disputes in relation to Whitecap Dakota First Nation Lands or interests in Whitecap Dakota First Nation Lands shall be determined as follows:

- (a) the parties to the dispute may agree that the dispute may be determined by mediation, arbitration or other dispute resolution mechanism agreed to by the parties; or
- (b) if the parties to the dispute do not agree on a dispute resolution mechanism, the dispute shall be determined by a court of competent jurisdiction.

### Bearing of Costs

34.2 Each party to a dispute resolution process set out in Article 34.1 shall bear their own costs and each agrees to share the costs equally of the person or persons selected pursuant to Article 34.1(a).

## **35. Indemnity and Liability Coverage**

### Indemnity

35.1 Members of the Council, the Lands Advisory Committee, a dispute resolution body and officers and employees engaged in carrying out any matter related to the administration of Whitecap Dakota First Nation Lands are indemnified and saved harmless from all claims, liabilities and demands of any kind or nature whatsoever arising from the performance of their obligations and duties under this Land Code, a Land Law or a Land Resolution, provide they have not acted fraudulently or negligently in the performance of their obligations and duties.

### Liability coverage

35.2 The Council may, but is not obligated to, arrange, maintain and pay for insurance coverage for its officers and employees engaged in carrying out any matter related to the administration of Whitecap Dakota First Nation Lands to indemnify them against personal liability from the performance of those duties.

### Extent of coverage

35.3 The extent of any insurance coverage shall be determined by the Council.

## 36. Offences

Application of the  
Criminal Code

- 36.1 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 or an Interest or Licence.

## 37. Land Code Amendment or Repeal

Ability to Amend

- 37.1 This Land Code may be amended.

Ability to Repeal

- 37.2 This Land Code may be repealed and replaced by the enactment of a new Land Code.

Community approval for Amendment or Repeal

- 37.3 All amendments to this Land Code or a repeal of this Land Code and the subsequent enactment of a new Land Code must receive community approval by Ratification Vote to be effective.

Date of Effect of Amendments

- 37.4 Amendments to this Land Code come into effect 30 days after the amendments were approved by Ratification Vote.

Date of Effect of Repeal and Enactment of New Land Code

- 37.5 The date on which a repeal of this Land Code and the enactment of its replacement Land Code shall take effect 30 days following the Ratification Vote passed to repeal this Land Code and to enact the new Land Code.

- 37.6 The Council may, from time to time, amend the Land Code without further Ratification Vote for any of the following purposes:

- (a) To remove any conflicts or inconsistencies which may exist between any of the terms of the Land Code and any provision of any applicable law or regulation, so long as the Council determines that such amendments will not be prejudicial to the interests of the First Nation; or
- (b) To correct any typographical error or to make corrections or changes required for the purpose of curing or correcting clerical omissions, mistakes, manifest errors or ambiguity arising from such deficiencies or inconsistent provisions in the Land Code.

37.7 The Council, in making amendments pursuant to section 37.6 shall proceed in accordance with the following processes:

- (a) The amendments shall be reviewed by the Lands Advisory Committee;
- (b) The amendments shall be posted and published in accordance with sections 9.5(b) and (c);
- (c) The Council shall consider any comments from any Members or Lenders; and
- (d) The amendments shall be approved by a vote by a show of hands of Eligible Voters who attend a community meeting called for the purpose of approving the amendments. Approval shall be deemed to be given when 50% plus 1 of those Eligible Voters in attendance at the community meeting vote in favour of the amendments.