

ATIKAMEKSHENG ANISHNAWBEK SPOUSAL PROPERTY LAW

Approved at Meeting of Community Members on April 15, 2016

Introduced and Tabled at May 4, 2016 Band Council Meeting

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ATIKAMEKSHENG ANISHNAWBEK SPOUSAL PROPERTY LAW

PREAMBLE

WHEREAS the Atikameksheng Anishnawbek First Nation has a profound relationship with the land which dates back to time immemorial, and we are proud of our rich and ancient Anishnawbek heritage;

WHEREAS Gichi jemminado (the Creator) has placed us here to uphold our sacred obligations to Shkagamik-kwe, our Nation, our clans and our families;

WHEREAS our existing Aboriginal and Treaty rights are recognized and affirmed under section 35 of the *Constitution Act, 1982*;

WHEREAS the inherent right of self-government is an existing Aboriginal right under section 35 of the *Constitution Act, 1982*;

WHEREAS we have the right to govern ourselves in relation to matters that are integral to our unique culture, identity, traditions, language and institutions and with respect to our special relationship to our land and resources;

WHEREAS our authority to govern our lands includes the jurisdiction to address real property issues such as spousal property upon the breakdown of marriage and common law relationships, and the occupation of the spousal home, and this inherent right has not been extinguished;

WHEREAS our self-government rights, including our right to adopt this Law, are confirmed by the *United Nations Declaration on the Rights of Indigenous Peoples*, and in particular Articles 3, 4, 5, 8(1) and 34;

WHEREAS our community's right to self-government in respect of reserve lands is also confirmed by the *Atikameksheng Anishnawbek Land Management Code*, which exists under the *First Nations Land Management Act* and which took effect on March 1, 2009.

WHEREAS section 39 of our Land Code requires us to adopt a Spousal Property Law providing rules and procedures applicable on the breakdown of spousal relationships relating to Atikameksheng Anishnawbek Land;

WHEREAS we encourage our members to try to resolve any spousal property issues

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internally, with the assistance of family or other community members, through mediation, or through our Dispute Resolution Panel, before turning to the courts;

WHEREAS this Law honours our undertaking to provide rights and remedies without discrimination on the basis of sex or sexual orientation to spouses who have or claim interests in Atikameksheng Anishnawbek Land upon the breakdown or their marriage or common-law relationship;

WHEREAS we intend to respect the right of spouses to make their own agreement as to the disposition of their interests in Atikameksheng Anishnawbek Land;

WHEREAS we wish to see spousal real property disputes resolved in a way that is in keeping with the best interests of their children, does not jeopardize the ability of our Nation's members to reside on reserve and hold real property on reserve, and is fair to both spouses; and

WHEREAS this Law will apply in conjunction with applicable federal and provincial laws concerning the division of personal property, real property off-reserve, spousal support, child support, and divorce.

NOW THEREFORE the Atikameksheng Anishnawbek First Nation hereby enacts the following Law:

1. INTERPRETATION AND APPLICATION

1.1 This Law may be cited as the "Atikameksheng Anishnawbek Spousal Property Law".

1.2 For the purposes of this Law, the following definitions shall apply:

"Atikameksheng Anishnawbek" means Atikameksheng Anishnawbek First Nation;

"Atikameksheng Anishnawbek Land" means all of the land that is subject to the Land Code;

"Child" means a person who is

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- (a) the offspring of at least one Spouse, or
- (b) adopted, under Canadian law or Aboriginal custom, by at least one Spouse

and it includes “children”;

“**Council**” means the Chief and Council of Atikameksheng Anishnawbek or any successor elected government of Atikameksheng Anishnawbek;

“**Court**” means the Superior Court, the Ontario Court of Justice, or any Ontario court(s) that replaces it as the forum for adjudicating family law disputes;

“**Domestic Contract**” means:

- (a) an agreement between Spouses who are married to each other, entered into when they were married or when they intended to marry, made in writing and signed by the parties and witnessed by an individual who is at least 19 years of age, in which they agree on their respective rights and obligations under the marriage or on separation, with respect to the occupation, possession or division of Spousal Property;
- (b) an agreement between Spouses who are living together in a marriage-like relationship, entered into during the relationship or in contemplation of the relationship, made in writing and signed by the parties and witnessed by an individual who is at least 19 years of age, in which they agree on their respective rights and obligations under the relationship or on separation, with respect to the occupation, possession or division of Spousal Property;
or
- (c) a separation agreement between Spouses who are living separate and apart, made in writing and signed by the parties and witnessed by an individual who is at least 19 years of age, in which they agree on their respective rights and obligations on separation with respect to the occupation, possession or division of Spousal Property.

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“Emergency Protection Order” is the order referred to in section 6.1 of this Law.

“Exclusive Occupation Order” is the order referred to in section 5.9 of this Law.

“Family Violence” includes the following actions by a person towards a Spouse or a Child:

- (a) causing or attempting to cause, physical or sexual abuse through an act or omission including forced confinement or deprivation of the necessities of life, and

- (b) psychological or emotional abuse that constitutes a pattern of coercive or controlling behaviour, including through internet or phone communication, which may include, but is not limited to, the following behaviours by the person towards the family member:
 - (i) intimidation, harassment or threats, including threats to harm the family member, other persons, pets or property to obtain the compliance of the family member,
 - (ii) unreasonable demands to know where or with whom the family member is or restrictions on the family member’s activities or contact with friends or family members,
 - (iii) financial abuse, including unreasonable prevention of the family member from access to or knowledge about family income,
 - (iv) stalking or following the family member,
 - (v) intentional damage to property, or
 - (vi) preventing or limiting a family member from practicing or accessing their First Nation culture or community.

but does not include acts of self-protection, or protection of another person, if the force does not exceed what is reasonable in the circumstances;

“Interest in Atikameksheng Anishnawbek Land” means any certificate of

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possession, camp lot allocation, lease, permit, or any other equivalent instrument, but does not include rental housing agreements for Atikameksheng Anishnawbek property or authorizations for temporary occupation of Atikameksheng Anishnawbek Land. For greater certainty, where there is a Spousal Home affixed to Atikameksheng Anishnawbek Land that is the subject of an Interest in Atikameksheng Anishnawbek Land, the Interest includes both the land and the Spousal Home;

“Lands Advisory Committee” means the committee established under the Land Code;

“Land Code” means the Atikameksheng Anishnawbek Land Management Code;

“Member” means a person whose name appears on the Atikameksheng Anishnawbek Indian Band membership list or who is entitled to have his or her name appear on that list;

“Panel” means the Dispute Resolution Panel established under the Land Code;

“Spousal Home” means a dwelling that is ordinarily used for a family purpose and is:

- (a) owned exclusively by one or both Spouses, and
- (b) affixed to Atikameksheng Anishnawbek Land;

“Spousal Property” means

- (a) an Interest in Atikameksheng Anishnawbek Land that is held exclusively by one or both Spouses, was acquired during the spousal relationship, and that was not received by way of gift or inheritance to only one Spouse;
- (b) where the Interest in Atikameksheng Anishnawbek Land is held by one or both Spouses and was acquired prior to the spousal relationship or was received during the relationship by way of gift or inheritance to only one Spouse, the share of the Interest that is proportionate to any increased value in the Interest during the course of the relationship;

“Spouse” means a person who:

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- (a) is married to another person, including through an Aboriginal customary marriage;
- (b) is living with another person in a marriage-like relationship (i.e. “Common Law Spouses”); or
- (c) is a former Spouse

and for greater certainty includes same-sex Spouses.

- 1.3 This Law applies only to Atikameksheng Anishnawbek Land and not the remainder of Atikameksheng Anishnawbek territory.
- 1.4 This Law only applies where at least one Spouse is a Member.
- 1.5 For greater certainty,
 - (a) a Spouse cannot commence legal proceedings after the death of the other Spouse under this Law, and his or her rights in relation to an Interest in Atikameksheng Anishnawbek Land or a Spousal Home will instead be determined by the applicable law governing the estate of the deceased Spouse;
 - (b) where a Spouse dies, the other Spouse may continue any legal proceedings under this Law that were started before the death of that Spouse.
- 1.6 This Law applies in conjunction with federal, provincial and any Anishnawbek family laws concerning the division of personal property, real property off-reserve, spousal support, child support, and divorce.

2. DOMESTIC CONTRACTS

- 2.1 Subject to sections 2.2-2.3, as well as Part 6 (Emergency Protection Orders) a provision in a Domestic Contract that reflects the agreement of the Spouses with respect to an Interest in Atikameksheng Anishnawbek Land or a Spousal Home is valid, binding, and enforceable by the Panel or the Court, whether the Spouses entered into the Domestic Contract before or after this Law came into force.

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- 2.2 A Domestic Contract may provide an Interest in Atikameksheng Anishnawbek Land, including the right to exclusively occupy a Spousal Home, to a Spouse or Child who is not a Member, but such Interest and such rights shall not in any case be greater than a life estate measured by the life of the individual intended to enjoy it. For greater certainty, a provision creating, or intended to create, any greater interest than a life estate in respect of a non-Member is void.
- 2.3 Subject to this Law, the Panel or the Court, on application by a Spouse, may set aside a Domestic Contract or any provision therein concerning an Interest in Atikameksheng Anishnawbek Land or a Spousal Home upon making a determination that:
- (a) a Spouse failed to disclose to the applicant Spouse any material information in respect of his or her Interests in Atikameksheng Anishnawbek Land or a Spousal Home;
 - (b) the applicant Spouse did not understand the nature or consequences of the Domestic Contract or provision;
 - (c) the Domestic Contract or provision is unconscionable, was entered into under duress, or on the basis of undue influence or fraud; or
 - (d) otherwise in accordance with the law of contract.
- 2.4 Subject to section 2.5, section 2.3 only applies to
- (a) married Spouses;
 - (b) Common Law Spouses;
 - (c) formerly married Spouses who have been divorced for less than two years as of the application date; and
 - (d) former Common Law Spouses who have been living separate and apart for less than two years as of the application date.
- 2.5 Where the time limit described in section 2.4 has expired
- (a) the formerly married Spouse or former Common Law Spouse may apply to the Panel or Court for permission to bring a late claim under section 2.3

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on the basis of compelling circumstances;

- (b) the Panel or Court shall determine whether the evidence establishes sufficiently compelling reasons for the delay to allow it to proceed, taking into account any prejudice that the other Spouse will suffer from the delay in the application; but
- (c) in no case shall the Panel or Court allow late claims to proceed where the married Spouses have been divorced for over five years or where the former Common Law Spouses have been living separate and apart for over five years.

3. ACCESS TO THE PANEL OR COURT

- 3.1 Before proceeding to the Panel or Court, Spouses are strongly encouraged to try to resolve their differences by agreement, including through mediation, unless one Spouse is experiencing or has recently experienced Family Violence.
- 3.2 Where Spouses are unable to resolve their differences regarding any matter addressed in this Law, they may apply to the Court or, where both Spouses consent, to the Panel, for a resolution of their dispute.
- 3.3 The Panel or Court shall adjudicate a dispute under this Law with regard to any decisions and orders rendered by the Panel, Court or any Anishnawbek adjudicative body that settle related family law matters for the Spouses, such as divorce, child custody, spousal support, child support, division of personal property or division of real property off-reserve.
- 3.4 A Spouse who applies for any decision or order from the Panel or Court based on any provision in this Law other than Part 6 (Emergency Protection Orders) must promptly serve the respondent Spouse and the Council with a copy of all of the documents supporting that application.
- 3.5 At the request of Council, the Panel or Court shall, before making its decision, allow the Council to make representations with respect to the cultural, social and legal context that pertains to the application and to present its views about whether or not the order sought should be made.

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3.6 When the Panel or Court makes any decision or order under this Law, the Spouse in whose favour the decision is made shall promptly provide a copy of the decision or order to the Council.

3.7 Parties must observe the rules and procedures of the Panel or Court, except where they are inconsistent with this Law, in which case this Law prevails.

4. DIVISION OF SPOUSAL PROPERTY OR COMPENSATION IN LIEU

4.1 Subject to section 4.2, Part 4 only applies to

- (a) married Spouses who are living separate and apart;
- (b) formerly married Spouses who have been divorced for less than two years as of the application Date; and
- (c) former Common Law Spouses who cohabited in a marriage-like relationship for at least three years and who have been living separate and apart for less than two years as of the application date.

4.2 Where the time limit described in section 4.1 has expired,

- (a) the formerly married Spouse or former Common Law Spouse may apply to the Panel or Court for permission to bring a late claim under Part 4 on the basis of compelling circumstances;
- (b) The Panel or Court shall determine whether the evidence establishes sufficiently compelling reasons for the delay to allow it to proceed, taking into account any prejudice that the other Spouse will suffer from the delay in the proceeding; but
- (c) In no case will the Panel or Court allow late claims to proceed where the married Spouses have been divorced for over five years or where the former Common Law Spouses have been living separate and apart for over five years.

4.3 Subject to this Law, the Panel or Court may make determinations concerning interests in and the division of value of Spousal Property and may make orders

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that are necessary, reasonable or ancillary to give effect to the determination, including, but not necessarily limited to:

- (a) a declaration as to whether people are Spouses;
- (b) a declaration as to whether the property at issue is Spousal Property and/or is a Spousal Home;
- (c) a declaration as to the ownership of any Interest in Atikameksheng Anishnawbek Land;
- (d) where both Spouses own the Spousal Property, order that one Spouse transfer the Spousal Property to the other Spouse exclusively, subject to such conditions as the Panel or Court deems just in all the circumstances;
- (e) where both Spouses are Members, an order that one Spouse lease an Interest in Atikameksheng Anishnawbek Land or a portion thereof to the other Spouse for a fixed period of time, subject to such conditions as the Panel or Court deems just in all the circumstances;
- (f) an order that a Spouse who holds Spousal Property pay compensation to the other Spouse to recognize the contribution that the other Spouse made to the acquisition, upkeep and/or improvement of the Spousal Property, which may include a schedule for payment of the compensation in instalments for a period of up to 10 years so as to avoid unnecessary hardship;
- (g) an order that restrains either Spouse from disposing of or transferring their Spousal Property, either legally or beneficially, pending the resolution of the Spouses' Spousal Property dispute; or
- (h) an order that one Spouse pay compensation to the other Spouse if an Interest in Atikameksheng Anishnawbek Land has been disposed of, for the purpose of recognizing the contribution that the other Spouse made to the acquisition, upkeep and/or improvement of the Spousal Property;
- (i) any appropriate equitable order where one Spouse has intentionally, recklessly, or fraudulently depleted Spousal Property.

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- 4.4 For greater certainty, the Panel or Court may not make any declaration or order providing for the transfer of rights in Spousal Property to a non-Member Spouse except as provided for under subsection 4.3(d).
- 4.5 In making any order under subsection 4.3(d), (f), (h), or (i) the Panel or Court shall begin with the presumption that each Spouse is entitled to an equal share of the value of the Spousal Property, and then consider whether this presumption should be varied in light of any of the following factors:
- (a) the date when the Spousal Property was acquired or disposed of;
 - (b) the duration of the relationship;
 - (c) the duration of the period during which the Spouses have lived separate and apart;
 - (d) the needs of each Spouse to become or remain economically independent;
 - (e) direct or indirect financial contributions of each Spouse toward the acquisition, upkeep, or improvement of the Spousal Property;
 - (f) the direct or indirect non-financial contribution of each Spouse to the acquisition, upkeep, or improvement of the Spousal Property, including through child-rearing responsibilities;
 - (g) The amount of any outstanding debt or other liabilities assumed by either Spouse to acquire, maintain, or improve the Spousal Property;
 - (h) any relevant order or award by a Canadian court, the Panel, or Anishnawbek adjudicative body regarding the Spouses' family law matters;
 - (i) any other factor that the Panel or Court considers relevant to an equitable division of the Spousal Property.
- 4.6 In making any compensation order under section 4.3(f), the Panel or Court shall not make any order until it has been provided with at least one valuation of the Spousal Property that has been prepared by a qualified appraiser, and which accounts for the limitations on the ownership rights associated with the Spousal

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Property and, in particular, the feasibility of selling or leasing the Spousal Property or replacing it with a new Interest in Atikameksheng Anishnawbek Land.

- 4.7 In making any compensation order under section 4.3(f), the Panel or Court shall not make an order that a Spouse demonstrates would likely force him or her to sell or otherwise alienate all of his or her Interests in Atikameksheng Anishnawbek Land. For greater certainty, that Spouse may choose one Interest in Anishnawbek Land to protect, and the Panel or Court may make a compensation order that will or might require the sale or alienation of any other Interests held by that Spouse.
- 4.8 Prior to making an order under 4.3 (d), (h), or (i), the Panel or Court may require the Spouses to provide it with at least one valuation of the Spousal Property or any component thereof. All appraisals must be prepared by a qualified appraiser and account for the limitations on the ownership rights associated with the Spousal Property and, in particular, the feasibility of selling or leasing the Spousal Property or replacing it with a new Interest in Atikameksheng Anishnawbek Land.
- 4.9 Where the interest of a Spouse in Spousal Property is held through a corporation, the Panel or Court may order that he or she transfer shares in the corporation to the other Spouse or have the corporation issue shares in the corporation to the other Spouse.
- 4.10 The Panel or Court shall not make any order that would require the sale of an operating business or farm on Atikameksheng Anishnawbek Land or so as to seriously impair its operation unless there is no reasonable alternative method of achieving an equitable result between the Spouses.

5. SPOUSAL HOME

- 5.1 The Panel or Court may, on the application of a Spouse, make a declaration as to whether or not the dwelling at issue is a Spousal Home.
- 5.2 Sections 5.3-5.7 only apply to
 - (a) married Spouses;
 - (b) Common Law Spouses who have been cohabiting in a marriage-like

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relationship for at least three years; and

(c) Common Law Spouses who are living with a Child.

5.3 Subject to the provisions below, both Spouses have an equal right to occupy the Spousal Home.

5.4 No Spouse shall dispose of or encumber an Interest in Atikameksheng Anishnawbek Land that he or she holds exclusively and that includes a Spousal Home unless:

(a) the other Spouse joins in the instrument or consents to the transaction;

(b) the other Spouse has released all rights in relation to the Spousal Home by Domestic Contract; or

(c) the Panel or Court has authorized the transaction or has released the Interest in Atikameksheng Anishnawbek Land from the application of this section.

5.5 If a Spouse disposes of or encumbers an Interest in Atikameksheng Anishnawbek Land in contravention of section 5.4, the transaction may be set aside on an application to the Panel or Court.

5.6 When a person proceeds to realize upon an encumbrance or execution against an Interest in Atikameksheng Anishnawbek Land held exclusively by one Spouse and that includes the Spousal Home, the Spouse who has a right of occupation under section 5.3 has the same right of redemption or relief against forfeiture as the other Spouse and is entitled to the same notice respecting the claim and its enforcement or realization.

5.7 The Panel or Court may, on the application of a Spouse, authorize a disposition or encumbrance of an Interest in Atikameksheng Anishnawbek Land that includes a Spousal Home, provided that such disposition or encumbrance is otherwise authorized under this Law, if the Panel or Court finds that the Spouse whose consent is required cannot be found or is not available, is not capable of giving or withholding consent, or is unreasonably withholding consent, and the Panel or Court may prescribe conditions including the provision of other comparable accommodation, or payment in place of it, that the Panel or Court considers appropriate.

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5.8 For the purpose of section 5.9, “Interest in Atikameksheng Anishnawbek Land” includes any

- (a) Interest in Atikameksheng Anishnawbek Land that includes a Spousal Home; and
- (b) property subject to a Certificate of Possession that is being held by Atikameksheng Anishnawbek pending repayment of a housing loan and that will be transferred to one or both Spouse upon repayment of the loan.

5.9 The Panel or Court may on application by a Spouse make an Exclusive Occupation Order for the Spousal Home or for an Interest in Atikameksheng Anishnawbek Land in favour of that Spouse for a specified period of time, where this order would not conflict with a Domestic Contract and where:

- (a) the applicant Spouse is a Member; or
- (b) the applicant Spouse is not a Member but is the primary caregiver of a Child under the age of 18, and such an order is in the best interests of the Child.

5.10 Where there has been a relationship breakdown between Spouses and a third party becomes the primary caregiver of their Child, that primary caregiver may apply for an Exclusive Occupation Order under section 5.9 as though he or she were one of the Spouses, and notwithstanding the existence of any Domestic Contract between the Spouses.

5.11 In applying section 5.9, the Panel or Court shall have regard to all relevant additional factors, including but not limited to the following:

- (a) the best interests of any affected Child;
- (b) whether a Child who resides at the Spousal Home is a Member;
- (c) the financial position of the Spouses any third party caregiver applicant;
- (d) the availability of other suitable and affordable housing;

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- (e) any Family Violence committed by one Spouse against the other Spouse or any affected Child.
- 5.12 An applicant applying for an Exclusive Occupation Order must provide notice of his or her application to:
- (a) the respondent Spouse(s); and
 - (b) any other Member who holds an Interest in the Atikameksheng Anishnawbek Land that is the subject of the application or who is the owner of a business that is operating on that Land
- unless those people cannot be located, in which case the applicant will need to provide sufficient evidence on this matter to the Panel or Court.
- 5.13 The Spouse(s) against whom an exclusive occupation order is sought and any other Member who falls under section 5.11(b) are entitled to make submissions to the Panel or Court about the proposed order.
- 5.14 A Spouse applying for an Exclusive Occupation Order must provide the Panel or Court with a copy of:
- (a) any Domestic Contract between the Spouses;
 - (b) any order by a Panel, Court, or Anishnawbek adjudicative body concerning custody and/or access for an affected Child; and
 - (c) where the application is under section 5.9(b), any further evidence required to establish that the applicant is the primary caregiver of a Child.
- 5.15 Any third party caregiver applying for an Exclusive Occupation Order must provide the Court with any Panel, Court or Anishnawbek adjudicative body order concerning custody and/or access of the Child.
- 5.16 Exclusive Occupation Orders are subject to the following time limits:
- (a) where the sole or primary purpose of the Exclusive Occupation Order is to allow a primary caregiver to raise a Child in the Spousal Home, the term of the order must expire at the latest on the date that the Child turns 18; and

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- (b) where the applicant is not a Member, the maximum length of the order is 2 years.

5.17 An Exclusive Occupation Order may specify any terms that the Panel or Court considers appropriate, including but not limited to the following:

- (a) the extent to which the contents of the Spousal Home are to remain in the Spousal Home for the duration of the order;
- (b) compensation payable by the applicant who obtains the order to the respondent(s) for use of the Spousal Home;
- (c) which Spouse is responsible for paying for and/or undertaking home maintenance and repairs to the Spousal Home; and
- (d) that the order is subject to variation should the Child's primary caregiver change.

5.18 Any person in whose favour or against whom an Exclusive Occupation Order is made may apply to the Panel or Court to have the order varied or revoked based on a material change of circumstances.

6. EMERGENCY PROTECTION ORDERS

6.1 Any Spouse residing on Atikameksheng Anishnawbek Land, whether or not he or she is a Member or resides in a Spousal Home, may make an *ex parte* application to the Court for an Emergency Protection Order of the property where he or she resides.

6.2 The Court may grant an Emergency Protection Order if it concludes that:

- (a) Family Violence has occurred and
- (b) the order should be made to help ensure the immediate protection of the Spouse or a Child who resides at the property.

6.3 An Emergency Protection Order may be for a period of up to 90 days, unless it concerns a rental property and the rental agreement expires or terminates in less

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than 90 days, in which case the order may not extend beyond the term of the rental agreement.

- 6.4 In deciding whether to grant an Emergency Protection Order, the Court is not bound by the provisions in any Domestic Contract between the Spouses.
- 6.5 An Emergency Protection Order must include a provision directing a peace officer to enforce any provision of the order upon the request of the applicant Spouse or the Council.
- 6.6 An Emergency Protection Order may include any of the following additional provisions:
 - (a) a provision requiring the Spouse against whom the order is made and any other person to vacate the property and prohibiting them from returning to the property;
 - (b) a provision directing a peace officer to remove the Spouse against whom the order is made and any other person from the property;
 - (c) a provision prohibiting any person who is required to vacate the property from attending within a specified distance from the property;
 - (d) a provision directing a peace officer to accompany the person who is required to vacate the property to the property in order to supervise the removal of personal belongings;
 - (e) any other provision that the Court considers necessary for the immediate protection of the person(s) at risk.
- 6.7 Any person in whose favour or against whom an Emergency Protection Order is made may apply to the Court to have the order varied or revoked within the time determined by the Court or, if no time limit is stipulated, at any point while the order remains in force.
- 6.8 The Council and, where the Emergency Protection Order concerns a property that is not owned by either Spouse, the owner of the Interest in Atikameksheng Anishnawbek Land subject to the order, may apply to the Court at any time to have the order varied or revoked, subject to any restrictions imposed on those parties by the terms of the order.

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- 6.9 A person who obtains an Emergency Protection Order may apply to have it renewed once, for a period of up to 90 days.
- 6.10 Renewal applications under section 6.9 must be made with notice to the respondent Spouse, the Council, and the owner of the Atikameksheng Anishnawbek Land that is subject to the order, in accordance with the applicable rules of Court.

7. FIRST NATION LAND REGISTER

- 7.1 Spouses shall promptly provide the Atikameksheng Anishnawbek Lands Manager with a copy of any Panel decision, Court order or other binding decision that relates to them and to the provisions under this Law.
- 7.2 The Lands Manager will advise the Spouses on whether registration of the document referred to under section 7.1 in the First Nations Land Register is advisable or required and shall advise the Spouses on what steps they must take to achieve registration.
- 7.3 Where a Spouse has done everything that he or she must do to ensure registration of the document referred to in section 7.1, the Lands Manager will ensure that registration is completed.

8. AMENDING PROCEDURES

- 8.1 The Council may make amendments to this Law that do not change the substance of this Law by band council resolution. Such revisions include, but are not necessarily limited to:
- (a) minor improvements in the language as may be required to clarify the original intention of the Law;
 - (b) correction of clerical errors;
 - (c) amendments to reference any relevant new or amended Atikmeksheng Anishnawbek laws; and
 - (d) amendments ordered by any court of competent jurisdiction.
- 8.2 The Council may make substantive amendments to this Law as long as the following steps have been followed:

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- (a) the Lands Advisory Committee recommends the amendments to the Council;
- (b) the Council reviews the amendments and consults with Members about them;
- (c) taking into account any member input received under section 8.2(b), the Council finalizes the wording of the amendments and adopts them by Band Council Resolution.

8.3 For greater certainty, as part of its consultation with Members under section 8.2(b), the Council may but is not required to hold a vote.

9. GENERAL PROVISIONS

9.1 Section 89 of the *Indian Act*, R.S.C. 1985, c. I-5 is inapplicable where a Spouse who is not an Indian within the meaning of the *Indian Act* seeks to enforce a Court order made under this Law.

9.2 If any provision or set of provisions in this Law is for any reason held invalid by a decision of the Panel or Court, the invalid provision(s) will, wherever possible, be severed from and not affect the remaining provisions of this Law.

9.3 A person commits an offence by refusing or neglecting, without reasonable excuse, to comply with any Panel or Court order made against that person under the provisions of this Law.

9.4 The summary convictions procedures of Part XXVII of the *Criminal Code*, as amended from time to time, apply to offences under this Law.

9.5 A Court order or Panel decision, certified by a proper officer of the Court that made the order, is proof of the order in a prosecution under section 9.4.

9.6 A fine payable under this section shall be remitted to Atikmeksheng Anishnawbek by the Panel or Court, after reasonable Panel or Court fees have been deducted by the Panel or Court.

9.7 This Law shall come into force on the date it is adopted by Council pursuant to a band council resolution.

Approved at Meeting of Community Members on April 15, 2016

Introduced and Tabled at May 4, 2016 Band Council Meeting