

**Lower Nicola Indian Band  
Lands Management Advisory Committee  
Meeting Agenda**

April 22, 2020, 4:00pm  
Virtual Skype Meeting

TIME	ITEM	PRESENTER
4:00	<b>1. MEETING OPENING</b> 1.1. Opening Prayer 1.2. Adoption of Agenda	
4:15	<b>2. ADMINISTRATION</b> 2.1. Adoption of Minutes <i>Reference Materials: 2020-04-15 LMAC Meeting Minutes draft</i> 2.2. Digital Signatures <i>Reference Material: LMAC Digital Signature Sample</i>	Jerrica Joe
4:30	<b>3. FOR INFORMATION AND DISCUSSION ONLY</b> 3.1. Enforcement Law Review <i>Reference Materials: LNIB Enforcement Law Summary; LNIB Enforcement Law draft</i>	Stephen Jimmie
6:30	<b>4. MEETING CONCLUSION</b> 4.1. LMAC Meetings Moving Forward A. Two Monthly Meetings as Needed B. Virtual Meeting Times	

**Lower Nicola Indian Band  
Lands Management Advisory Committee  
Meeting Minutes**

**April 15, 2020, 4:00 pm  
Lands and Economic Development Boardroom**

<b>Present:</b>	Bill Bose (Chair)	Gene Moses	Louise Moses	Madeline Lanaro
	Hrolfe Joe (Co-Chair)	Robert Sterling	Sondra Tom	
<b>Council:</b>	Spence Coutlee			
<b>Guests:</b>	Shawn Speirs, LABRC			
<b>Staff:</b>	Stephen Jimmie	Brandi O’Flynn	Jerrica Joe	

**1. MEETING OPENING**

The meeting was called to order at 4:16 pm.

**1.1. OPENING PRAYER**

An opening prayer was offered by Bill Bose.

**1.2. ADOPTION OF AGENDA**

**Motion (01):** That the LMAC Meeting Agenda dated April 15, 2020 be adopted with the following amendments:

- Add 3.5 Infracon Site Lease
- Remove Dinner Break

**Moved: Madeline Lanaro**

**Seconded: Sondra Tom**

***Motion Carried***

**2. ADMINISTRATION**

**2.1. ADOPTION OF MINUTES**

*Reference Materials: 2020-03-09 LMAC Meeting Minutes draft*

**Motion (02):** That the March 09, 2020 LMAC Minutes be adopted as circulated.

**Moved: Louise Moses**

**Seconded: Sondra Tom**

***Motion Carried***

**2.2. DIGITAL SIGNATURES**

LMAC Members were asked about their preferences for documents requiring signatures during virtual meetings and while physical distancing remains paramount. Options discussed included eliminating signatures for resolutions by noting them in the minutes, or having Jerrica add each attending member’s signature to the resolution digitally once passed.

**Motion (03):** That all LMAC resolutions shall be considered official when passed in the minutes with the carried resolution attached as a reference material to the minutes without signatures for the duration of the COVID-19 pandemic.

**Moved: Sondra Tom**

**Seconded: Gene Moses**

***Motion Carried***

**Action (01):** Jerrica shall present more information regarding digital signatures for documents.

Stephen asked to take a moment for Shawn Speirs of the Lands Advisory Board Resource Centre (LABRC) to introduce himself. Stephen invited Shawn to join this meeting as there is a draft law up for consideration and Shawn is as a lawyer who works with the LABRC to support communities under Land Code.

### **3. FOR INFORMATION AND DISCUSSION ONLY**

#### **3.1. LMAC QUARTERLY REPORT**

*Reference Materials: 2019-2020 LMAC Quarterly Report Q3*

Brandi overviewed the LMAC Quarterly Report, noting that this report has gone to Kari and been sent to Council for review. Bill mentioned that Members have asked him about traditional land holdings, and would like to present these dilemmas to the Lands department.

**Action (02):** The Lands Department will reach out to Bill Bose to schedule a meeting to discuss members' lands issues which have been brought to his attention.

#### **3.2. LANDS SECTOR QUARTERLY REPORT**

*Reference Materials: 2019-2020 Lands Quarterly Report Q3*

Stephen presented and overviewed the Lands Sector Quarterly Report, explaining that this report is requested by Kari (ED) from each sector, which he believes then also goes forward to Council for information. Spence asked whether this has gone to Council, and it was mentioned that it typically does go to Council for informational only, but is not reviewed at a Council meeting.

#### **3.3. LAW RATIFICATION SCHEDULE**

*Reference Materials: 2020-2021 LNIB Law Ratification Schedule; LNIB Law Making Summary from LC*

Stephen provided an overview of the draft ratification schedule for the various LNIB laws under development, to illustrate the initially planned timeline – prior to the COVID-19 pandemic – and initiate discussion regarding law ratification.

Discussion ensued on opportunities for community engagement activities during the pandemic. Comments and concerns included:

- Not all members have internet access or a phone to call in, limiting accessibility
- Accessibility of print materials for draft Laws – it was suggested that there be a way for off-reserve Members to request a print copy of draft law materials by mail
- Physical signage around LNIB reserves could be planned in addition to online notices for LNIB Laws

- Members may have ample time to review draft Laws at this time and participate in online meetings, then we can hold the in-person meetings later
- Overall concerns over a lack of adequate community engagement during the COVID-19 pandemic and that law ratification may need to be delayed until a time when Members can meet in person
- Shawn shared that communities are addressing community engagement in various ways: holding virtual engagement, working on the backend until in-person meetings are possible, or putting all projects requiring engagement on hold for the time being; there is no right or wrong way to proceed
- Some communities are reviewing attendance at past community meetings and comparing to attendance of online meetings to determine whether it is adequate for moving forward with decision making for projects
- LMAC members expressed openness to online meetings with Members, but were firm in their desire to hold in-person engagement prior to ratification of any Law
- It may be a good idea to contact family heads in order to increase attendance at community engagement meetings with Members

Stephen asked about thoughts regarding carrying on with Law ratification. Discussion ensued on the suspension of Law ratification at this time and the holding of virtual meetings in the interim as a part of community engagement.

**Decision (01):** The LMAC would like to suspend the ratification of LNIB Laws until a time when community engagement meetings with Members can be held in person.

Stephen shared the importance of LNIB Law development due to the absence of guidelines and policies to governing how to address various issues in a fair and equitable manner, and discussed challenges in the interim. He mentioned the Allotment Law, which is scheduled for ratification early this year, and that without that Law in place there are challenges with Members regarding land and housing allotments such as CMHC's.

Discussion ensued on possibly implementing an Allotment policy in the interim, which Shawn mentioned has worked for some communities when there has been a lot of community discussion with Members over time, but has been less successful when there has been less discussion and Members disagree with the policy. Shawn mentioned the option of a CMHC Allotment Policy to specifically address CMHC situations, for which it may be easier to get community buy-in. LMAC Members expressed interest in this approach.

Discussion ensued on the extra responsibilities of home ownership and the importance of ensuring that Members are aware of these responsibilities, including home insurance.

Stephen discussed that there is a plan for the Band to deal with the "low-hanging fruit" of lands issues, which includes paid out yet unallotted CMHC's. Discussion ensued on what is currently included in the Allotment Law draft, such as the guidelines for CMHC's or houses with agreements.

**Action (03):** The Allotment Law will be moved to the second slot in the Law Ratification Schedule, though this is on hold until meetings can be held in person.

### 3.4. ENFORCEMENT LAW REVIEW

*Reference Materials: LNIB Enforcement Law Summary; LNIB Enforcement Law draft*

Stephen provided an overview of the LNIB Enforcement Law summary. The LMAC decided to review this Law in detail together at this meeting. Discussion ensued on the creation of this draft Law, which was inspired by another First Nation's Law, worked on by a consulting lawyer familiar with LNIB's Land Code, and has most recently been reviewed and revised by Stephen with Shawn Speirs.

Shawn Speirs shared his comments regarding the draft Enforcement Law, drawing from what some other communities have done as options for LNIB. He mentioned that this is a foundational document which other Laws will reference. His comments included:

- Preamble: very legal language, some communities also include statements of "what makes them them" such as mission statement and guiding principles
- Section references (throughout): some people really like that this points to a specific point to look at, while others dislike that this can require more updating as sections of this Law or others may change over time from various amendments
- Justices of the Peace qualifications (s.11): LNIB can decide who we want to be our decision makers, give them different titles as desired and provide criteria for who can hold these positions and any desired oath of office
- Definition "an information" (s.5): a legal definition, may not be the best fit for a community law, we may prefer a more relatable term with more common language such as "offence report"
- Hearing of dispute (s.28.1): many communities have added a step where the ticket is reviewed by an appointed reviewer to confirm whether the ticket was issued correctly and can cancel the ticket if unenforceable, prior to a hearing
- LMAC Question: could there be conflict between our own appointed Justice of the Peace and Canadian law? LNIB appointed Justice of the Peace would serve to adjudicate over LNIB Laws; LNIB Laws must comply with Human Rights.

**Decision (02):** That the LMAC table the Enforcement Law Review until the next meeting, and each agree to review the draft law on their own by then.

#### A. LAW APPROVAL REQUIREMENTS

*Reference Materials: Draft Resolution for discussion*

Discussion ensued on the requirements for LNIB Law approvals including community engagement and the approval for a Law to come into force. Stephen overviewed the Land Code (LC) stating a BCR as the approval requirement for Law ratification, and a requirement for one Meeting of Members for community engagement, and informed the LMAC that Council may modify these requirements for particular Laws under the LC.

Discussion ensued on the concerns around holding only one community meeting prior to ratification for Member input and inclusivity, the hierarchy of policies and laws, and the amendment process for laws – including building review process into Laws.

#### 3.5. INFRACON SITE LEASE

*Reference Material (presented digitally through Skype during the meeting): Briefing Report for LMAC RE: Infracon Lease*

Stephen reviewed the reference material, providing an overview of the situation regarding Infracon's lease of lots 369 and 370 on Nicola Mameet IR No.1 from LNIB including the involvement of the LNIB Development Corporation, which previously requested a head lease for the property but has not moved forward with this.

Spence disclosed that he is a board member of the LNIB Development Corporation, but was not present during decisions listed in the reference material. Gene disclosed an association with Infracon.

Stephen discussed the recommendations in the reference materials. Discussion ensued on the desire to ensure that all leasee's are paying rent, etc. on time to avoid cultivating a reputation of non-compliant tenants. Stephen informed the LMAC that Infracon has accumulated past rental arrears, but is paying regularly at present.

**Motion (04):** Having reviewed and discussed the Briefing Report for LMAC RE: Infracon Lease dated April 15, 2020 prepared by Stephen Jimmie, Director of Lands, the LMAC supports and recommends that the Chief and Council:

- Secure a direct lease between LNIB and Infracon; and
- Require Infracon to pay the outstanding rental arrears from 2017 or consider initializing eviction procedures.

**Moved: Madeline Lanaro                      Seconded: Sondra Tom**

***Motion Carried***

**4. MEETING CONCLUSION**

**4.1. LMAC MEETINGS MOVING FORWARD**

**A. TWO MONTHLY MEETINGS AS NEEDED**

Postponed to next meeting due to time restrictions.

**B. VIRTUAL MEETING TIMES**

Postponed to next meeting due to time restrictions.

**Decision (03):** Next Meeting: Wednesday, April 22, 2020 at 4:00pm

**Motion (05):** That the Lands Management Advisory Committee meeting be concluded at 7:33 pm, with outstanding items 3.4 and 4.1 to be moved forward to the next meeting.

**Moved: Sondra Tom                      Seconded: Madeline Lanaro**

***Motion Carried***

**SUMMARY OF ACTION ITEMS:**

- 01. Jerrica shall present more information regarding digital signatures for documents.
- 02. The Lands Department will reach out to Bill Bose to schedule a meeting to discuss members' lands issues which have been brought to his attention.
- 03. The Allotment Law will be moved to the second slot in the Law Ratification Schedule, though this is on hold until meetings can be held in person.

**LOWER NICOLA INDIAN BAND  
LANDS MANAGEMENT ADVISORY COMMITTEE**

181 NAWISHASKIN LANE, MERRITT, BRITISH COLUMBIA V1K 0A7  
TEL.: 250-378-5157 FAX: 250-378-6188

RESOLUTION No. SAMPLE

**WHEREAS**

A. *Background Information and Relevant Sections of Land Code*

**NOW THEREFORE BE IT RESOLVED THAT** *Motion*

This resolution is supported by the undersigned and passed this xx day of month 20xx.

**Quorum of Committee: 4**



William Bose, Chair



Madeline Lanaro



Gene Moses



Louise Moses



Hrolfe Joe



Robert Sterling



Sondra Tom

**LOWER NICOLA INDIAN BAND  
LANDS MANAGEMENT ADVISORY COMMITTEE**

181 NAWISHASKIN LANE, MERRITT, BRITISH COLUMBIA V1K 0A7  
TEL.: 250-378-5157 FAX: 250-378-6188

RESOLUTION No. SAMPLE

**WHEREAS**

A. *Background Information and Relevant Sections of Land Code*

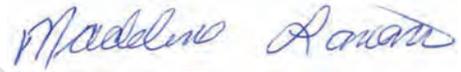
**NOW THEREFORE BE IT RESOLVED THAT** *Motion*

This resolution is supported by the undersigned and passed this xx day of month 20xx.

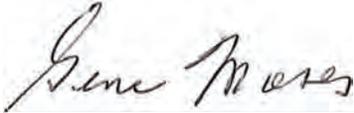
**Quorum of Committee: 4**



William Bose, Chair



Madeline Lanaro



Gene Moses



Louise Moses



Hrolfe Joe



Robert Sterling



Sondra Tom

## LNIB Enforcement Law

### Why We Need Laws

Laws are rules made by the government that forbid certain actions and are enforced by the courts. Laws apply to everyone equally. If you break a law, you may have to pay a fine, pay for the damage you have done, or go to jail.

Imagine the chaos – and the danger – if there were no laws. The strongest people would be in control and people would live in fear. Drivers could choose which side of the street to drive on and no one could stop them. Imagine trying to buy and sell goods if no one had to keep promises. Or trying to hold onto your personal property or even to keep yourself safe if there were no laws against robbery or assault.

Even in a well-ordered society, people disagree, and conflicts arise. The law provides a way to resolve disputes peacefully. If two people claim the same piece of property, rather than fight they turn to the law. The courts can decide who the real owner is and how to protect the owner's rights.

Laws help to ensure a safe and peaceful society. The Canadian legal system respects individual rights and ensures that our society is orderly. It applies the same law to everybody. This includes the police, governments and public officials. All of them must carry out their duties according to the law.

### LNIB Enforcement Law

Given the inherent right of LNIB to self-government and stewardship of our lands, and as enabled by the *Land Code*, the Director of Lands recommended to Chief and Council the enactment of the *LNIB Enforcement Law*. The Law was tabled at a duly convened meeting of Chief and Council on **DATE** and enacted at a duly convened meeting of Chief and Council on **DATE**.

The purpose of the *Enforcement Law* is to enable the fair, effective, and efficient enforcement of all LNIB laws. Enacting an overarching *Enforcement Law* rather than enforcement provisions in each individual law makes sense at this time because of the robust suite of laws that LNIB is developing. This approach allows LNIB to avoid repetition, and possibly confusion, by repeating the same enforcement provisions in different laws. LNIB staff, members, residents and others interested in or affected by our laws must look only to one location for enforcement provisions.

The *Enforcement Law* enables Council to appoint a Justices of the Peace, sets out their authorities, and the circumstances under which they must refer matters to a Judge. The law designates Enforcement Officers and sets out their authorities.

The *Enforcement Law* establishes the requirements for tickets including their form and content, the serving of tickets, payment of fines or disputing tickets, and the process for hearings of disputes. The law lays out a process for instances when a person fails to appear at a hearing or fails to respond to a ticket, including time extensions in certain circumstances and collections.

Schedules to the law list all LNIB laws to which the *Enforcement Law* applies, and establishes the applicable fines and penalties for offences.

For more information please refer to the *Enforcement Zoning Law*. Any questions can be directed to the Director of Lands at the LNIB Lands Sector administration office. Copies of the Law are available online or in hard copy at the administration office.

## **LNIB ENFORCEMENT LAW**

# LNIB ENFORCEMENT LAW

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DRAFT

# LNIB ENFORCEMENT LAW

## PREAMBLE

**WHEREAS** since time immemorial, the members of the Lower Nicola Indian Band have continuously and without interruption occupied our territory and exercised Aboriginal title to our traditional lands;

**AND WHEREAS** Lower Nicola India Band has an inherent right to self-government which emanates from its people, culture, language, and land, and which is recognized and affirmed by section 35 of the Constitution Act, 1982;

**AND WHEREAS** our Nation has chosen to assume control of its Indian Reserve Lands pursuant to the First Nation Lands Management Act, S.C. 1999 C. 24 by entering into the Individual Agreement on First Nation Land Management between Lower Nicola Indian Band and Her Majesty The Queen In Right Of Canada and by adopting the Lower Nicola Indian Band Land Code;

**AND WHEREAS** under sections 6.1 and 6.2 of the Land Code, Council is authorized to establish laws relating to the enforcement of Laws including with respect to the appointment of justices of the peace for the enforcement of Laws;

**AND WHEREAS** section 22(3) of the *First Nations Land Management Act* (Canada) authorizes LNIB, in relation to prosecutions of contraventions of Laws,

- (a) to retain its own prosecutors,
- (b) to enter into an agreement with British Columbia for the use of provincial prosecutors, or
- (c) to enter into an agreement with Her Majesty for the use of agents engaged by Her Majesty;

**AND WHEREAS** section 24 of the *First Nations Land Management Act* (Canada) provides that

- (a) a justice of the peace shall have tenure and remuneration, and be subject to conditions of removal, that reflect the independence of office of justice of the peace in British Columbia, and
- (b) justices of the peace have all the powers necessary for the performance of their duties and functions.

**AND WHEREAS** Council wishes to implement a consolidated enforcement law to enable fair, effective and efficient enforcement of Laws,

**NOW THEREFORE BE IT RESOLVED THAT** the Council enacts as follows:

## PART 1– CITATION, APPLICATION, DEFINITIONS AND INTERPRETATION

### Citation

1. The Law may be cited as the Enforcement Law.

# LNIB ENFORCEMENT LAW

## Purpose

2. The purpose of this Law is to enable fair, effective and efficient enforcement of Laws.

## Application

3. (1) This Law applies to all LNIB Land.  
(2) This Law binds the LNIB government.

## Paramountcy

4. If there is a conflict between this Law and the Land Code, the Land Code will prevail.

## Definitions

5. (1) In this Law:

“an information” means mean the instrument that sets out the information that confirms a peace officer’s reasonable and probable grounds to believe someone has committed an offence;

“compliance notice” means a notice issued in accordance with section 20;

“court” means a court of competent jurisdiction in British Columbia;

“Criminal Code” means the *Criminal Code of Canada*, RSC 1985, c C-46;

“discounted fine” means the amount of the fine set out in Schedule A that is payable if payment is received on or before the 14th day after the date a ticket was served;

“enforcement officer” means a Person designated under section 12;

“judge” means a judge presiding over a court;

“justice of the peace” means a justice of the peace appointed under section 11(1) to ensure the enforcement of Laws including the adjudication of offences of Laws;

“named person” means a Person to whom a compliance notice or ticket is issued;

“place” means

- (a) a dwelling,
- (b) a building or structure or any part of a building or structure other than a dwelling,  
or
- (c) a vehicle, vessel, or trailer;

“peace officer” has the same meaning as provided in the Criminal Code;

“prosecutor” means

- (d) a lawyer retained by Council to prosecute offences of a Law; or

## LNIB ENFORCEMENT LAW

- (e) subject to an agreement with British Columbia or Canada regarding the prosecution of contraventions of a Law,
  - (i) a provincial prosecutor, or
  - (ii) a federal agent;

“Schedule A” means the Schedule to this Law that sets out the fine, discounted fine and surcharge associated with offences under applicable Laws.

“surcharge” means the amount set out in Schedule A that is payable if payment for a fine is received on the 30th day after the date a ticket was served;

“ticket” means a ticket issued in accordance with section 20.

- (2) In addition to the terms defined in this Law, terms used in this Law may be defined in the Land Code.

### Interpretation

- 6. (1) A reference in this Law to an enactment is to be construed as including a reference to that enactment as it may be amended from time to time.
- (2) A word in the singular form may be read in the plural form if the context allows it and a word in the plural form may be read in the singular form if the context allows it.
- (3) Unless otherwise expressly provided, the structures, organizations, bodies, principles and procedures established or used in this Law will be guided and interpreted in accordance with the culture, traditions and customs of LNIB.

### Severability

- 7. The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

### Validity

- 8. Nothing under this Law must be rendered void or invalid by
  - (a) an error or omission in a compliance notice, ticket, order, form or other document given or authorized under this Law; or
  - (b) a failure of LNIB, a LNIB official or their delegate to do something within the required time.

## PART 2 - SCHEDULES

### Schedule

## **LNIB ENFORCEMENT LAW**

9. (1) Schedule A forms part of this Law and has the force of law.
- (2) A reference to “this Law” includes Schedule A.
- (3) Despite section 36, Council may amend Schedule A by Resolution.

### **PART 3- OFFENCES**

#### **Offences generally**

10. (1) A Person commits an offence against a Law by:
  - (a) doing anything prohibited under a Law; or
  - (b) omitting to do anything required under a Law.
- (2) An enforcement officer may commence a proceeding for an offence against a Law by
  - (a) issuing a ticket in accordance with section 20;
  - (b) issuing a compliance notice in accordance with section 20; or
  - (c) laying an information for a prosecution before a justice of the peace or a Court in accordance with section 17.
- (3) Where a Person commits an offence for more than one day, it constitutes a separate offence for each day on which the Person commits or continues the offence.

### **PART 4 - JUSTICES OF THE PEACE**

#### **Justices of the peace**

11. (1) Council may appoint by resolution, with the advice of the Lands Manager and the Lands Management Advisory Committee and in a manner consistent with this Law and the Land Code, any justices of the peace that Council determines
  - (a) are necessary to enforce Laws; and
  - (b) qualified to serve in the position of justice of the peace.
- (2) Before carrying out any authorities granted to it under this Law, any justice of the peace appointed by Council must swear or affirm an oath of office prior to commencing their duties.
- (3) Unless otherwise instructed by Council, a justice of the peace is empowered and authorized to make decisions regarding the application and enforcement of this Law including as follows:
  - (a) whether an offence has been committed;
  - (b) whether a compliance notice or ticket was validly issued;

## **LNIB ENFORCEMENT LAW**

- (c) whether a fine or surcharge is due; and
  - (d) any other related decisions.
- (4) If, in the course of a hearing before a justice of the peace, a matter arises that is within the exclusive jurisdiction of a court, the justice of the peace must terminate the hearing and refer the matter to be heard as a new matter by a judge.
- (5) Before the commencement of any hearing by a justice of the peace, a party to the matter may apply to court for an order that the matter be heard by a judge instead of by the justice of the peace.
- (6) In making an order pursuant to subsection (5), the judge must consider relevant factors, including, without limitation, the following factors:
- (a) the objectives of respecting Laws and LNIB's self-government, and of encouraging timely, effective and efficient enforcement of Laws;
  - (b) the complexity of the factual and legal issues involved in the matter;
  - (c) the proposed length of the trial of the matter;
  - (d) the severity of the potential outcomes or consequences of the matter; and
  - (e) the public interest in the outcome of the matter.

### **PART 5 - ENFORCEMENT OFFICERS**

#### **Appointing enforcement officers**

12. In addition to an enforcement officer appointed or designated under another Law, LNIB appoints the following as enforcement officers:
- (a) any RCMP officer or peace officer; and
  - (b) any individual or company designated by Council by resolution.

#### **Authority of enforcement officers**

13. (1) Without limiting an enforcement officer's powers at law, including in another Law, an enforcement officer is authorized to do the following for the purpose of performing his or her duties or exercising his or her powers in relation to this Law:
- (a) issue compliance notices;
  - (b) issue tickets;
  - (c) at any reasonable time, enter
    - (i) land or unoccupied premises, or

## LNIB ENFORCEMENT LAW

- (ii) a dwelling with the consent of the occupier or if authorized by another Law or, subject to section 14, a warrant issued by a court;
- (d) in a manner that is consistent with enforcement measures under federal legislation and subject to sections 14 and 15, make any reasonable inspection, investigation or inquiry necessary to determine if this Law, or a compliance notice, order or other instrument issued under this Law, has been complied with or contravened, or an offence is being committed or has been committed;
- (e) without limiting the interpretation of paragraph (d) and subject to section 15, an enforcement officer may:
  - (i) inspect, analyze, measure, sample or test land, and any article or substance located on or in the land,
  - (ii) take away samples of land, articles or substances,
  - (iii) examine and take away copies of records relating to any matter governed by a Law,
  - (iv) take photographs or make audio records,
  - (v) with the consent of the occupier or if authorized by another Law or a warrant,
    1. inspect, analyze, measure, sample or test any article or substance located in a dwelling or other place,
    2. seize and remove anything that the enforcement officer has reasonable grounds for believing is evidence of an offence, and
    3. take other actions as consented to by the occupier, or authorized in another Law or a warrant;
- (f) direct or require that a Person take certain measures or meet certain conditions to ensure compliance with a Law or an authorization issued under a Law, including, without limiting the generality of the Lands Manager's or an enforcement officer's authority, terms and conditions for traffic control, and to prevent injury, harm, nuisance, or damage to the public, property, or the environment, including terms and conditions dictating the remediation or restoration of the land;
- (g) issue a stop work order to order any Person who has not received full and proper authorization to cease carrying out any activities prohibited under a Law;
- (h) provide to a prosecutor with information sufficient to initiate the prosecution of an offence;
- (i) perform any other duties and exercise any other powers assigned or delegated to the enforcement officer

## LNIB ENFORCEMENT LAW

- (i) under this or any other Law, or
- (ii) by Council.

(2) A stop work order imposed under subsection (1)(g) may be registered in court and enforced as a court order and continues in force until the condition that led to it is remedied or until the activity that is the subject of the stop work order receives proper authorization.

(3) For certainty, an enforcement officer, acting in the performance of a duty or in the exercise of a power under this and any other Law, may enter and pass over any LNIB Land without being liable for trespass but is liable for damages to the land resulting from his or her activities.

(4) Subsection (3) applies to any person who is assisting an enforcement officer.

(5) On request and in the course of performing their duties, an enforcement officer must show their identification as an enforcement officer.

(6) The authority of an enforcement officer:

- (a) may be limited by the terms or conditions of their appointment as an enforcement officer; and
- (b) may be increased if the enforcement officer is, under another Law appointed or designated to enforce the provisions of another Law.

### Warrants

14. (1) On an enforcement officer's application made without notice, a justice of the peace may issue a warrant authorizing an enforcement officer to enter and search a place and examine anything that is relevant to determining compliance with a Law if the justice of the peace is satisfied that the enforcement officer has been properly appointed and that there are reasonable and probable grounds for believing that something relevant to the investigation is at the place.

(2) A warrant issued under subsection (1) does not authorize an entry or search after sunset or before sunrise unless it is expressly stated in the warrant.

(3) An enforcement officer entering and searching a place under the authority of a warrant issued under subsection (1) may be assisted by a peace officer and may enter a place by force.

### Copying and removal of documents and objects

15. (1) An enforcement officer may copy or, subject to subsection (2), remove a document, record or thing examined under section 13(1) or under the authority of a warrant under section 14 at LNIB's expense.

(2) An enforcement officer may only remove a document, record or thing under subsection (1) if

- (a) it is not practicable to copy it in the place where it is examined; or

## **LNIB ENFORCEMENT LAW**

- (b) a copy of it is not sufficient for the purposes of the investigation.
- (3) In order to examine or produce a document or record in readable form, an enforcement officer may use data storage, information processing or retrieval devices or systems that are normally used in carrying on business in the place in which he or she is conducting the investigation.
- (4) If it is practicable to copy a document, record or thing removed under subsection (1), the enforcement officer must,
  - (a) if it was removed under subsection (2)(a), return the document, record or thing within a reasonable time; or
  - (b) if it was removed under subsection (2)(b), provide the person who was in possession of the document, record or thing with a copy of it within a reasonable time.
- (5) A copy of a document, record or thing certified by an enforcement officer to be a true copy must be received in evidence in any proceeding to the same extent and will have the same evidentiary value as the document, record or thing itself.

## **PART 6 - PROSECUTION OF OFFENCES**

### **Completing an information**

- 16. (1) An enforcement officer or other Person who believes on reasonable grounds that a Person has committed an offence may complete an information regarding the alleged offence.
- (2) An information must be in the form approved by Council and made under oath.

### **Prosecution of offences**

- 17. (1) The Lands Manager or an enforcement officer may, on reasonable and probable grounds, lay an information on behalf of LNIB that a Person has committed or is suspected of having committed an offence, provided that the information has been approved by a prosecutor.
- (2) In the prosecutor's review of an information and the prosecution of an offence, they must consider:
  - (a) all relevant information and documents relating to the prosecution;
  - (b) whether there is a substantial likelihood of conviction of the offence;
  - (c) the seriousness of the offence;
  - (d) the values of LNIB;
  - (e) the integrity and independence of the LNIB enforcement system; and

## LNIB ENFORCEMENT LAW

- (f) the public interest.
- (3) The prosecutor must perform their duties and exercise their powers in a manner consistent with the overall authority and role of a prosecutor in the administration of justice in British Columbia.

### Limitation period for laying an information

- 18. If a Law does not specify the limitation period for laying an information, the Lands Manager or an enforcement officer may not lay an information more than six months after a LNIB official discovers the commission of the alleged offence.

### Application of the Criminal Code

- 19. The summary conviction proceedings of Part XXVII of the Criminal Code apply to the prosecution of offences.

## PART 7 - COMPLIANCE NOTICES AND TICKETS

### Issuing a compliance notice or ticket

- 20. (1) If an enforcement officer has reasonable grounds to believe a Person is committing an offence or has committed an offence, the enforcement officer may issue to the Person a compliance notice or a ticket in the form approved by Council.
- (2) A compliance notice or a ticket must be issued to a named person unless it is issued for an offence involving a vehicle, in which case it must also be issued to:
  - (a) the vehicle's licence plate; or
  - (b) the vehicle's identification number, temporary operation permit or interim permit under the *Motor Vehicle Act* (British Columbia) or other applicable law.
- (3) If a compliance notice or a ticket is issued under subsection (2), the compliance notice or the ticket is deemed to have been issued to each registered owner of the vehicle as contained in the provincial records.
- (4) Each registered owner of a vehicle referred to in subsection (3) is deemed to be a named person.

### Contents of a compliance notice and a ticket

- 21. (1) A compliance notice and a ticket must be in the form approved by Council, and must contain the following information:
  - (a) the particulars of the alleged offence in sufficient detail to permit the named person to identify it;
  - (b) the date the compliance notice or ticket is issued;
  - (c) the name and signature of the enforcement officer who issued the compliance notice or ticket;

## LNIB ENFORCEMENT LAW

- (d) how to dispute the alleged offence.
- (2) In addition to the information required under subsection (1), a compliance notice must contain the following information:
- (a) sufficient information to notify the named person to do whatever is necessary to stop or rectify the offence,
  - (b) the date or time period within which the named person must comply with the requirements provided under paragraph (a),
  - (c) a provision that if the compliance notice is not disputed within the time provided,
    - (i) the compliance notice will be treated as undisputed, and
    - (ii) the named person will be deemed to have pleaded guilty to the alleged offence; and
  - (d) any other information prescribed by regulation.
- (3) In addition to the information required under subsection (1), a ticket must contain the following information:
- (a) the fine, discounted fine and surcharge in accordance with Schedule A,
  - (b) a provision that if the ticket is not disputed within the time provided,
    - (i) the ticket will be treated as undisputed,
    - (ii) the named person will be deemed to have pleaded guilty to the alleged offence,
    - (iii) the fine will be immediately payable to LNIB, and
    - (iv) the methods of paying the fine; and
  - (c) any other information prescribed by regulation.
- (4) A compliance notice may state that if the named person does not comply with the requirements set out in the compliance notice and rectify the offence, LNIB or a person authorized by Council may take action to rectify the offence at the expense of the named person.

### **Serving a compliance notice or a ticket**

22. Unless otherwise provided in a Law, a compliance notice or ticket may be served by:

- (a) personally giving the compliance notice or ticket to the named person;
- (b) verbally delivering the compliance notice or ticket to the named person if the offence is, or may be, a nuisance, trespass, danger to public health or threat to public order, peace or safety that requires immediate compliance;

## LNIB ENFORCEMENT LAW

- (c) mailing the compliance notice or ticket by registered mail to the named person at the last known address for that person; or
- (d) if the named person is unknown, affixing the compliance notice or ticket in a conspicuous location where the undertaking or activity of concern is occurring.

### **When failure to serve a document does not invalidate proceeding**

23. (1) If a compliance notice or ticket is not served in accordance with section 22, a proceeding or an action in relation to the compliance notice or ticket is not invalidated if:

- (e) the content of the compliance notice or ticket was known by the named person within the time allowed for service;
- (f) the named person consents; or
- (g) the failure to serve in accordance with section 22 does not result in any substantial injustice.

(2) If a compliance notice or ticket relates to an offence involving a vehicle, that compliance notice or ticket must be delivered to the address of each registered owner of the vehicle as shown in the provincial records.

### **Form of compliance notice or ticket**

24. A compliance notice or ticket may be completed, recorded, issued and stored:

- (a) in electronic format by electronic means; or
- (b) by another means that allows the compliance notice or ticket to be reproduced in an understandable form.

### **Complying with or disputing a compliance notice**

25. Subject to section 30 [extension of time limits] and the period of time specified in the compliance notice under section 21(2)(b), a named person must, within 14 days of service of a compliance notice:

- (a) comply with the requirements in the compliance notice in the manner stated in the compliance notice; or
- (b) dispute the allegation contained in the compliance notice in accordance with section 28.

### **Paying or disputing a ticket**

26. (1) Subject to section 30 [extension of time limits], a named person must, within 14 days after service of a ticket,

- (a) pay the fine stated in the ticket to LNIB in the manner stated in the ticket; or
- (a) dispute the allegation contained in the ticket in accordance with section 28.

## LNIB ENFORCEMENT LAW

- (2) If a named person fails to comply with subsection (1), the fine set out in the ticket is immediately payable to LNIB in the manner indicated in the ticket, and the surcharge is also payable if the fine is not paid within the time period set out in the ticket.

### Effect of paying fine

27. A Person who pays a fine in compliance with this Law and the ticket is deemed to have:

- (a) pleaded guilty to the offence to which the Person was charged; and
- (b) have paid the fine imposed,

and no conviction need be drawn up or entered unless it is required under the Law contravened or by the Person convicted or by a prosecutor.

### Hearing of dispute

28. (1) A named person may dispute the allegation contained in a compliance notice or ticket by:

- (a) mailing to the address set out in the compliance notice or ticket a written notice of dispute, which notice must include an address for the Person disputing the allegation and sufficient information to identify the compliance notice or ticket and the alleged contravention being disputed, and which notice will be deemed to have been delivered on the date that it was mailed; or
- (b) appearing in person at the location set out in the compliance notice or ticket to give notice of dispute.

(2) If notice of dispute is given in accordance with subsection (1), the Lands Manager or Council must

- (a) within seven days after receiving the notice of dispute, deliver a copy of the notice to any other named person; and
- (b) refer the compliance notice or ticket to a justice of the peace or court for a hearing.

(3) If a compliance notice or ticket is referred pursuant to subsection (2), LNIB must confirm that the Person who was served with the compliance notice or ticket receives a notice of the hearing specifying a time and place for the appearance of the Person before the justice of the peace or judge.

(4) If a Person appears at the time and place specified in the notice under subsection (3), despite any rule of procedure, the applicable justice of the peace or judge has jurisdiction to hear the dispute without examining the notice of dispute or the notice of the hearing or inquiring into the service of the ticket on the Person.

(5) A justice of the peace or judge hearing a dispute on a compliance notice or ticket may:

## LNIB ENFORCEMENT LAW

- (a) admit as evidence, whether or not it would be admissible under the laws of evidence, any oral or written testimony or any record or thing that the justice considers is relevant to an issue in the trial and is credible and trustworthy, but may not admit anything that is privileged under the laws of evidence; and
  - (b) adopt procedures that are conducive to justly and expeditiously determining the matter.
- (6) The justice of the peace or judge must expeditiously review the compliance notice or ticket and may, by order:
- (a) reverse or modify the compliance notice or ticket with or without conditions; or
  - (b) confirm the compliance notice or ticket.
- (7) If a Person who is served with a compliance notice or ticket:
- (a) has appeared before a justice of the peace or judge at the time and place specified in the notice under subsection (3) and pleaded guilty to or been found guilty of the offence with which the Person was charged; or
  - (b) is deemed to have pleaded guilty to the offence with which the Person was charged in accordance with section 29(1) or section 29(2),

then no conviction need be drawn up or entered unless it is required under the law contravened or by the Person convicted or a prosecutor.

### Failure to appear at hearing

29. (1) A Person is deemed to have not disputed a compliance notice or ticket if the Person fails to appear before a justice of the peace or judge to dispute the applicable offence at the time and place specified in the notice under section 28(3), or at a new time and place set under section 30(4)(c).
- (2) If a Person is deemed under subsection (1) to have not disputed the compliance notice or ticket, the Person is deemed to have pleaded guilty to the offence with which the Person was charged, and any fine amount indicated on the ticket is immediately payable by the Person to LNIB.

### Time extensions

30. (1) A Person who is served with a compliance notice or ticket but does not dispute the charge, or fails to appear before a justice of the peace or judge at the time and place specified in the notice under section 28(3), may apply to a justice of the peace or court for a time extension in the circumstances established by this section.
- (2) In the case of a Person who did not dispute the charge, the Person may only apply for a time extension under this section if:
- (a) the Person has, through no fault of that Person, not had an opportunity to dispute the charge; and

## **LNIB ENFORCEMENT LAW**

- (b) not more than thirty (30) days have passed since the end of the period referred to in section 25 or 26.
- (3) In the case of a Person who failed to appear before a justice of the peace or judge to dispute the charge, the Person may only apply for a time extension under this section if:
  - (a) the failure was through no fault of the Person; and
  - (b) not more than thirty (30) days have passed since the date specified in the notice under section 28(3).
- (4) The justice of the peace or judge to whom an application is made pursuant to this section, on being satisfied by affidavit in the form approved by Council, with or without hearing from the applicant, that the applicable conditions set out in section 30(2) or section 30(3) have been met may:
  - (a) strike out the conviction, if any;
  - (b) in the case of a Person who did not dispute the charge, allow the Person fourteen (14) days after the date the conviction is struck to dispute the charge in accordance with section (#); or
  - (c) in the case of a Person who failed to appear to dispute the charge, set a new time and place for the appearance of the Person before a justice of the peace or judge.
- (5) If a conviction is struck out under subsection (4)(a), the justice of the peace or judge must give the Person a certificate of the fact in a form approved by Council.

### **Collections**

- 31. If a person fails to pay a fine under this Law, the Lands Manager is authorized to following thirty (30) days after having sent a warning letter to the person send any unpaid fine to a collection agency.

## **PART 8 – OFFENCES AND PENALTIES**

### **Offences**

- 32. A Person who does any of the following commits an offence:
  - (a) obstructs, interferes with or hinders Council, an enforcement officer, or any authorized employee, officer or agent in the carrying out of their duties and responsibilities under this Law;
  - (b) fails to comply with a compliance notice or ticket or an order under section 28(6); or
  - (c) otherwise contravenes this Law.

## LNIB ENFORCEMENT LAW

### Penalty

33. A Person who commits an offence under section 32 is liable, on summary conviction, to a fine not exceeding \$2,000 or imprisonment for a term not exceeding six months.

## PART 9 - GENERAL PROVISIONS

### Limitation of liability

34. (1) No enforcement officer or any other person assisting an enforcement officer is liable for anything done or omitted in good faith execution of any duty or power under this Law.
- (2) No action for damages lies or may be instituted against LNIB, or a manager, employees, servant, official or agent of LNIB,
- (a) for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty, or the exercise of the person's authority under a Law, or any regulation enacted pursuant to a Law; or
  - (b) for any alleged neglect or default in the performance or intended performance of the person's duty or the exercise of the person's authority under a Law, or any regulation enacted pursuant to a Law.
- (3) Subsection (2) does not provide a defence if:
- (a) LNIB, or a manager, employee, servant, official or agent of LNIB, has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
  - (b) the cause of action is libel or slander.
- (4) LNIB, or a manager, employee, servant, official or agent of LNIB, is not liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of their neglect or failure, for any reason, to discover or detect any contraventions under a Law, or any regulation enacted pursuant to a Law.
- (5) All actions against LNIB for the unlawful doing of anything that:
- (a) is purported to have been done by LNIB under the powers conferred by a Law or any regulation enacted pursuant to a Law; and
  - (b) might have been lawfully done by LNIB if acting in the manner established by law,
- must be commenced within six (6) months after the cause of action first arose.

## LNIB ENFORCEMENT LAW

### Regulations

35. (1) Council may make regulations it considers necessary or advisable for purpose under this Law.
- (2) For certainty, the powers of Council under subsection (1) include the power to make regulations:
- (a) prescribing the form of a compliance notice and ticket and any other forms or documents necessary or advisable for the purposes of this Law;
  - (b) prescribing fees to cover costs of adjudicating disputes, including additional administrative fees if a person unsuccessfully disputes a compliance notice or ticket.
- (3) Subsection (2) does not restrict Council from approving matters listed in that subsection by Resolution.

## PART 9- AMENDMENTS

### Substantive amendments to this Law

36. With the exception of a minor amendment described at section 37, an amendment or repeal of this Law must only be made by Council as recommended by the Lands Advisory Committee in accordance with the Land Code.

### Minor amendments

37. (1) Council may approve a minor amendment to this Law by Resolution.
- (2) For the purposes of subsection (1), minor amendments mean:
- (a) amendments to correct typographical errors;
  - (b) amendments required to reference any relevant new or amended Law;
  - (c) amendments ordered by any court of competent jurisdiction; and
  - (d) amendments which serve to clarify this Law, where there is no reasonable dispute about the intention underlying the original provision.

## PART 10 - COMING INTO FORCE

### Coming into force

38. This Law comes into force on the date it is passed by Resolution after complying with section 7 of the Land Code.

**THIS LAW IS HEREBY DULY ENACTED** by Council on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at \_\_\_\_\_, in the Province of British Columbia

**LNIB ENFORCEMENT LAW**


**Quorum consists of X Council members.**

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**LNIB ENFORCEMENT LAW**

**SCHEDULE A**

**SCHEDULES OF OFFENCES AND PENALTIES**

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## LNIB ENFORCEMENT LAW

<b>LNIB Subdivision, Development and Servicing Law – Fines for Tickets</b>			
<b>Prohibited Conduct</b>	<b>Discounted Fine</b> <i>(if paid within 14 days)</i>	<b>Fine</b>	<b>Surcharge</b> <i>(if not paid within 30 days)</i>
<p>12(1) Subject to the exemptions at section 13, a Person must not undertake any of the following activities on LNIB Land except in strict compliance with an authorization, an applicable land use plan and environmental management plan, the Cultural Heritage Policy, the B.C. Building Code and any applicable policies and enactments:</p> <ul style="list-style-type: none"> <li>(a) the subdivision of LNIB Land;</li> <li>(b) the construction, alteration, enlargement, addition, demolition, or removal of a building, including for certainty, signs, swimming pools and decks;</li> <li>(c) the installation of a street, intersection, sewer system, water system or other infrastructure of any kind;</li> <li>(d) the clearing, grading, blasting, excavating or other alteration of LNIB Land;</li> <li>(e) the deposit or removal of more than 10 m<sup>3</sup> of soil;</li> <li>(f) the removal of trees; and</li> <li>(g) other activities designated by Council in a regulation.</li> </ul>	\$450	\$500	\$550
24(1)(c) failing to comply with a stop work order.	\$450	\$500	\$550
24(1)(d) failing to comply with an enforcement officer's direction or requirement to take certain measures or meet certain conditions to ensure compliance with the law or an authorization.	\$450	\$500	\$550
25(a) providing false or misleading information in order to obtain an authorization under the Law.	\$300	\$350	\$400
25(e) contravening an order made by a court in relation to the Law.	\$500	\$550	\$600

## LNIB ENFORCEMENT LAW

25(f) obstructing, interfering with or denying access onto any land or into any building to an enforcement officer whose entry is authorized under the Law.	\$450	\$500	\$550
25(g) contravening the Law in any manner that is not listed under section 25 of the Law.	\$300	\$350	\$400
<b>LNIB Enforcement Law – Fines for Tickets</b>			
<b>Prohibited Conduct</b>	<b>Discounted Fine <i>(if paid within 14 days)</i></b>	<b>Fine</b>	<b>Surcharge <i>(if not paid within 30 days)</i></b>
13(1)(f) failing to comply with a direction or requirement to take certain measures or meet certain conditions to ensure compliance with the law or an Authorization.	\$450	\$500	\$550
13(1)(g) failing to comply with a stop work order.	\$450	\$500	\$550
13(3) obstructing, interfering with or denying access onto any land or into any building to an enforcement officer whose entry is authorized under the Law.	\$450	\$500	\$550
32(a) A Person must not obstruct, interfere with or hinder Council, an enforcement officer, or any authorized employee, officer or agent in the carrying out of their duties and responsibilities under this Law.	\$500	\$550	\$600
32(b) failing to comply with a compliance notice or ticket or an order under section 28(6).	\$500	\$550	\$600
32(c) contravening the Law in any manner that is not listed in section 32.	\$300	\$350	\$400