

 **LOWER NICOLA**  
 **INDIAN BAND**

**Lands Management Advisory Committee**

## **LMAC Virtual Meeting Monday, June 15, 2020**

### **Details to Join Skype Meeting by Phone:**

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**Dial-in toll number:      1 (647) 260-0507**

**Conference ID:              645600533#**

.....

If you would like to join by Skype to see meeting materials as we discuss them, find details on the LNIB website or email [Jerrica.Joe@lnib.net](mailto:Jerrica.Joe@lnib.net) for more information.

**Note:** *In order to maintain audio quality and meeting flow, non-LMAC attendees may be muted during the meeting.*

**Note:** *Attendees may enter a “waiting room” as LMAC members get set up; everyone is let in as soon as we are ready to start (typically 5-10 minutes after 4:00pm)*

**Note:** *Questions and comments can be submitted to [Jerrica.Joe@lnib.net](mailto:Jerrica.Joe@lnib.net) prior to the meeting to be addressed during or after the meeting.*

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

June 15, 2020, 4:00pm  
Virtual Skype Meeting

TIME	ITEM	PRESENTER
4:00	<b>1. MEETING OPENING</b> 1.1. <b>Opening Prayer</b>	
4:15	<b>2. ADMINISTRATION</b> 2.1. <b>Adoption of Agenda</b>  2.2. <b>Adoption of Minutes</b> <i>Reference Materials: 2020-06-01 LMAC Meeting Minutes draft</i>	
4:25	<b>3. TRAINING AND OPPORTUNITIES</b> 3.1. <b>Conflict of Interest Training Presentation</b> <i>Reference Materials: FMB Managing Conflicts of Interest Presentation Slides</i>	Laura Bouchard, <i>First Nations Financial Management Board</i>
6:15	3.2. <b>Webinar June 19: Federal Contraventions Act: a possible tool for enforcement?</b> <i>Reference Materials: June 19 Webinar Agenda</i>	Stephen Jimmie
6:25	<b>4. FOR INFORMATION AND DISCUSSION</b> 4.1. <b>Lands Sector Quarterly Report</b> <i>Reference Materials: 2019-2020 Lands Quarterly Report for Q4</i>  4.2. <b>Enforcement Law Review (continued)</b> <i>Reference Materials: LNIB Enforcement Law Draft 02 tracked changes Large Print</i>	Brandi O’Flynn  Stephen Jimmie
6:55	<b>5. MEETING CONCLUSION</b> 5.1. <b>Summer Meetings Schedule</b> 5.2. <b>Next LMAC Meeting</b>	

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

**June 01, 2020, 4:00 pm  
Virtual Skype Meeting**

<b>Present:</b>	Bill Bose (Chair)	Gene Moses	Louise Moses	Madeline Lanaro
	Hrolfe Joe (Co-Chair)	Robert Sterling	Sondra Tom	
<b>Council:</b>	Robin Humphrey			
<b>Guests:</b>	Shawn Speirs, Lands Advisory Board Resource Centre (LABRC)			
	Rae-Lynne Mills, Trans Mountain Corporation (TMC)			
<b>Staff:</b>	Stephen Jimmie	Brandi O’Flynn	Jerrica Joe	

**1. MEETING OPENING**

The meeting was called to order at 4:09 pm. All attendees participated via phone or computer.

**1.1. OPENING PRAYER**

An opening prayer was offered by Bill Bose.

**2. ADMINISTRATION**

**2.1. ADOPTION OF AGENDA**

**Motion (01):** That the LMAC Meeting Agenda dated June 01, 2020 be adopted with the following amendment:

- Add Lot Allotments as item 3.2

**Moved: Sondra Tom**

**Seconded: Louise Moses**

***Motion Carried***

**2.2. ADOPTION OF MINUTES**

*Reference Materials: 2020-05-11 LMAC Meeting Minutes draft*

**Motion (02):** That the LMAC Meeting Minutes dated May 11, 2020 be adopted as circulated.

- 4.2 Remove “Discussion ensued on” and “Questions arose regarding”

**Moved: Sondra Tom**

**Seconded: Gene Moses**

***Motion Carried***

It was mentioned that LMAC would still like the topic of fencing along Highway 97C to be added as an agenda item for discussion at a future meeting. Staff – Brandi O’Flynn from the Lands Department and Suzette O’Flynn from the Infrastructure Department – are looking into files at LNIB regarding any agreement with the Cattle Association about this fencing and its maintenance. Discussion ensued on the specific fencing in question.

### 3. NEW BUSINESS

#### 3.1. TRANS MOUNTAIN 2020 SURVEY REQUEST

*Reference Materials: TM LNIB Survey Request Presentation; Ownership Sketch; Proposed Resolution 2020-04 – two options*

Rae-Lynne Mills introduced herself and provided a presentation outlining the survey work planned and anticipated for the year, as well as Trans Mountain Corporation's (TMC) request for survey permission on Zoht IR No. 5 for 2020. It was noted by Rae-Lynn that this area was missed during previous preparation stages during which permission would typically have been sought.

Rae-Lynne briefly overviewed the surveys listed in the presentation and the usual process taken for receiving permission for surveys and next steps once work progresses. It was discussed that to date there has been an ownership sketch completed, and next would be the sweeps and staking for existing utilities in the right of way and a legal survey in the area.

Discussion ensued the areas for which permission is being sought, land ownership and title, and other areas which may be involved with TMC requests. Rae-Lynne overviewed the process of the sweep and survey activities for which they are seeking permission, which are expected to span one day on reserve, and that TMC would be willing to compensate for a cultural monitor to attend. It was additionally mentioned that TMC could be flexible in working around when LNIB is open to having these activities carried out.

Discussion ensued on the need for TMC to seek permission from the Certificate of Possession (CP) holder(s) for a parcel of private member-owned land which their planned activities cross (Zoht IR No.5 Lot 3). Disconnect between various systems may have caused a gap in knowledge regarding land ownership on reserve, resulting in TMC not having contacted the CP holder(s) for permission at this time.

Rae-Lynne left the meeting at 4:39 pm.

Questions arose regarding TMC's timeline for proceeding with work on the Trans Mountain Expansion Pipeline (TMEP); it was discussed that the timeline is unknown to Lands staff due to many variables and discussions between TMC and landowners, though it is likely quite some time away – public media comments may have suggested around a 2 year timeline. Comments were made regarding the desire for clearer lines of communication regarding projects such as the TMEP.

Discussion ensued on the reference material proposed resolution options, and land title for the area which TMC is requesting access. It was mentioned that LMAC members would prefer to revisit this topic after staff follow up regarding land ownership in the area.

**DECISION (01):** LMAC members requested that this item be tabled until staff can confirm that affected CP holder(s) are contacted for permission, and would only like to see a proposed motion permitting the legal survey, sweeps and staking (*Proposed Resolution Option B in the 2020-06-01 LMAC Meeting Package*).

**ACTION (01):** Lands staff will follow up regarding CP holders being contacted by TMC for permission for surveys and sweeps for 2020.

#### 3.2. LOT ALLOTMENTS

Madeline brought up that she is seeking a home lot on LNIB reserve near Shulus, given the recent sale of her home off-reserve. She mentioned a willingness to pay for a home lot, and that she is under the impression that there are some lots which may be available near the Band School.

Discussion ensued on the availability of home lots for members, including the necessity for the enactment of an Allotment Law and the resolution of traditional land holdings prior to home lots being made available for allotment to members. At this time, the only option for purchasing lots on LNIB reserve is to purchase from a member who possesses a CP for their lot. Discussion ensued on the timeline for progression on this issue, and the Traditional Holdings Projects Phase 2 commencing this year, which includes the drafting of a process to resolve traditional land holdings.

**ACTION (02):** Bill would like to see a map of ownership and availability of lots in the Shulus area – CP'd, etc.

Discussion ensued on the re-survey of the Shulus Village area on Nicola Mameet IR No.1, which is planned for summer 2020. LMAC members expressed a desire for lots to be made available for members to build homes in the next few years. Discussion ensued on CMHC home lots, equitable process for home lot allotments, and an Allotment Law. It was noted that Madeline will have a conflict of interest regarding discussion and decision making related to LNIB home lot allotments.

#### **4. FOR INFORMATION AND DISCUSSION**

##### **4.1. ENFORCEMENT LAW REVIEW (continued)**

*Reference Materials: LNIB Enforcement Law Draft 02 with tracked changes*

Stephen provided a high-level summary of the changes made since the previous draft of the Enforcement Law, considering feedback received throughout the review process at LMAC meetings to date. Stephen then reviewed the document in detail, discussing each revision from past discussions.

Discussion ensued on community justice process considerations, and the need for ticketing to be carried out in an unbiased manner. The group discussed decision making, LNIB values, inter-nation decision making possibilities, and ensuring that activities are in line with what the LNIB community wants. Stephen mentioned that if a community justice process were added to this law, as a schedule, it would need to go through community engagement, which would ensure that it is community minded. Stephen asked that LMAC members start thinking further about what a community justice process could look like for planning and discussion at a later date.

Discussion ensued on examples of past enforcement carried out by LNIB staff. Concerns were raised with the amount of responsibilities within the Enforcement Law which all seem to fall onto the Lands Manager, the capacity of one person to handle all of these responsibilities and duties, and the future need for increased staff.

Comments mentioned during the discussion of the LNIB Enforcement Law included:

- Favourable thoughts about the community involvement included in the law development;
- It was mentioned that Darwin Hanna, a former indigenous lawyer, may have good insights into the inclusion of Indigenous law or xitlix (pronounced "hee-t-lee"), and it may be a good idea to invite him to a meeting or to review this draft law;
- Discussion ensued on the benefit of inviting members and families directly to join into the review and the importance of asking individual members in community meetings for their input on topics or questions, as some will only share comments if asked individually.

**ACTION (03):** Stephen requests that the LMAC review Section 13 (*Community Justice Process*) for consideration and discussion at a later date regarding composition, eligibility, etc.; and proposed discussing this section with members' families for additional ideas and feedback.

Stephen mentioned that section 13 (*Community Justice Process*) will continue to be reviewed at future meetings, and that the LMAC will continue to look at the next draft LNIB law while considering options and ideas for the Community Justice Process.

## 5. MEETING CONCLUSION

### 5.1. NEXT LMAC MEETING

Discussion ensued on when to hold the next LMAC meeting, June 08 or June 15, 2020.

**Decision (02):** Next Meeting: Monday, June 15, 2020 at 4:00pm

**Motion (03):** That the Lands Management Advisory Committee meeting be concluded at 6:47 pm.

**Moved: Sondra Tom**

**Seconded: Gene Moses**

***Motion Carried***

### **SUMMARY OF ACTION ITEMS:**

01. Lands staff will follow up regarding CP holders being contacted by TMC for permission for surveys and sweeps for 2020.
02. Bill would like to see a map of ownership and availability of lots in the Shulus area – CP'd, etc.
03. Stephen requests that the LMAC review Section 13 (*Community Justice Process*) for consideration and discussion at a later date regarding composition, eligibility, etc.; and proposed discussing this section with members' families for additional ideas and feedback.



# Managing Conflicts of Interest



First Nations  
FINANCIAL  
MANAGEMENT  
BOARD

LE CONSEIL  
DE GESTION  
FINANCIÈRE des  
Premières Nations

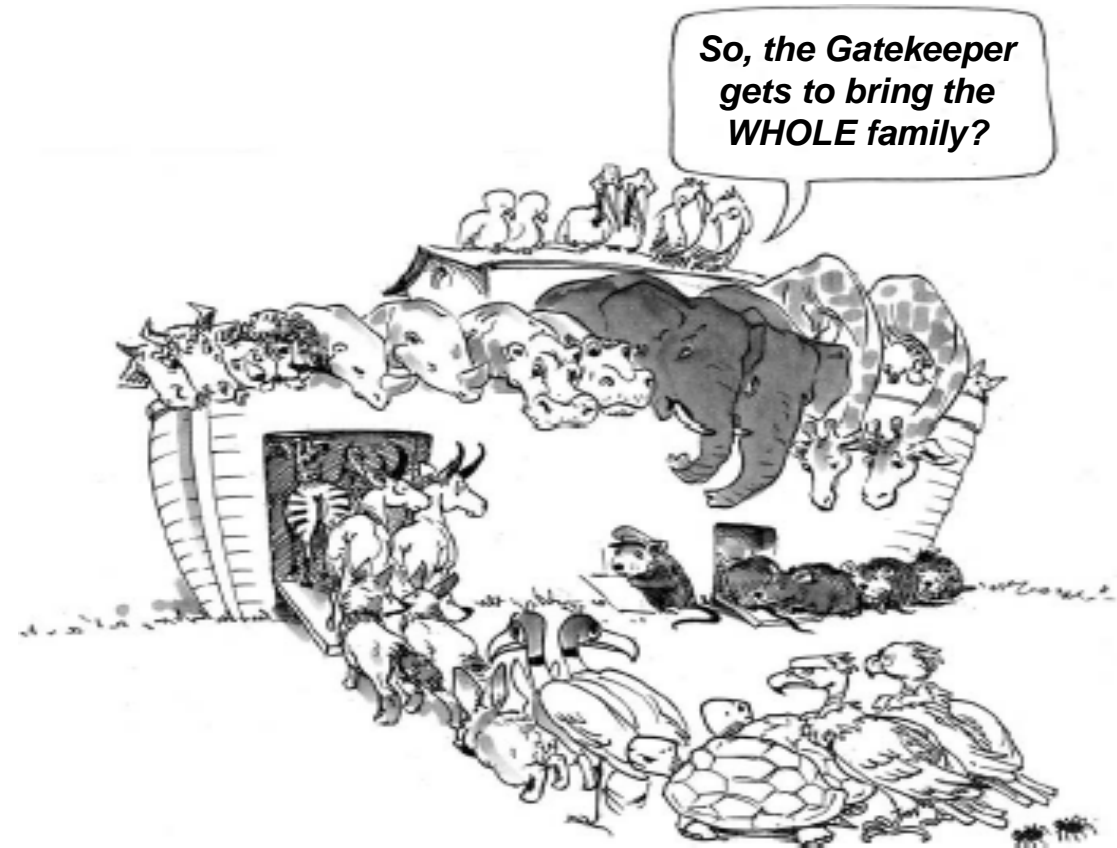
# Learning Objectives

- What IS a conflict of interest?
- Who cares? Why do I and my Nation need to know?
- How can we manage conflicts of interest?



# What IS a Conflict of Interest?

*Personal gain at the expense of others*



# Why Do I and my Nation Need to Know About and Manage Conflicts of Interest?

- ✓ Ensures Nation's best interests are behind every decision
- ✓ Minimizes criticism of the Nation's Councillors, staff, contractors
- ✓ Promotes transparency and accountability
- ✓ Builds community trust and support
- ✓ Meets FMS Certification requirements



# How Can I and my Nation Manage Conflicts of Interest?

Who decides on whether a conflict of interest exists?

When and how should it be disclosed?

When and how should it be managed?

Consequences?

Conflict of interest policy

Code of conduct

Transparency & accountability mechanisms



## What IS a Conflict of Interest?

## Defining Conflicts of Interest

- Defining what is a conflict of interest means defining what are 'private interests' i.e. '**conflicting motives**'. This is what creates the 'personal gain' at the expense of others i.e. the Nation.
- 'Personal' can mean immediate family, close friends, other relatives, business interests, other employment. This definition is unique to each Nation and can be specified in a policy or in the Financial Administration Law
- How broad should the definition of 'conflicting motives' (private interests) be?



# Real vs. Perceived vs. Potential – Defining ‘Private Interests’



# Real vs. Perceived vs. Potential

## Perceived conflict of interest

- Situation where there appears to be a conflict of interest, but this is not in fact the case, or may not be the case.
- Can be as serious as an actual conflict, because of the potential for doubt to arise about a person's integrity, and the integrity of the Nation.

## Potential conflict of interest

- Situation where a conflict of interest may exist where a person has private interests which could cause a conflict of interest to arise at some time in the future.

## Real vs. Perceived vs. Potential – Testing for ‘Conflicts of Interest’

?

What duties or functions is the person responsible for?

?

Does this person or their relatives/close friends have conflicting motives?



## Example # 1 – Real, Perceived, Potential or None?

*A Nation's Housing Manager is a 50/50 partner in a project management business and sits on the Board of Directors. This business is bidding for work to assist the Nation manage its housing new builds.*

**Question 1:** What are the Housing Manager's duties and responsibilities?

– the effective administration of the Nation's Housing Policy and resources.

**Question 2:** Does the Housing Manager have conflicting motives?

– to make money from the project management business. As Housing Manager, would have confidential knowledge of contract requirements that other bidders would not have.

**Question 3:** Does a real, perceived or potential conflict of interest exist, or none at all?

## Example # 2 – Real, Perceived, Potential or None?

*The Nation is considering investing in a for-profit mining camp business and one of the Nation's councillors sits on the Board of Directors of this business as an independent Director (not in their capacity as councillor).*

**Question 1:** What are the councillor's duties and responsibilities?

– Responsible for acting in the Nation's best interests and leading the Nation to achieving its strategic goals.

**Question 2:** Does the councillor have conflicting motives?

– As Director of the mining camp business, must represent the best interests of the business' shareholders.

**Question 3:** Does a real, perceived or potential conflict of interest exist, or none at all?

## Example # 3 – Real, Perceived, Potential or None?

*The band manager, completely separate from his duties and responsibilities for the Nation, owns a snow removal business. The Nation currently has an agreement with the neighboring municipality for snow removal but is not happy with the quality of service. The Nation is thinking of going to tender for a new snow removal service.*

**Question 1:** What are the band manager's duties and responsibilities?

- Responsible for managing the day-to-day operations of the Nation's administration.

**Question 2:** Does the band manager have conflicting motives?

- Not right now, but could if the Nation goes to tender for a new snow removal supplier.

**Question 3:** Does a real, perceived or potential conflict of interest exist?

## Case Study # 1 – Real, Perceived, Potential or None?

The Capital Works department has presented to Council its recommendation for procuring a supplier for renovating 25 of its houses.

- A competitive process was followed and 3 bids were submitted. The Director of Capital Works was on the Selection Committee which has recommended awarding the contract to supplier # 2. The evaluation was based on cost, qualifications of staff, and previous experience.
- The Director of Capital Works' cousin is a 50/50 owner of supplier # 2.
- The Director of Capital Works is not close with this cousin and has lost ties with this family. He did not disclose/declare a conflict of interest.

At your table, discuss if there is a real, perceived, potential or no conflict of interest?

**After 5 minutes**, name a spokesperson to share your discussion with the group.

# Managing Conflicts of Interest



# How Can I and my Nation Manage Conflicts of Interest?

Who decides on whether a conflict of interest exists?

When and how should it be disclosed?

When and how should it be managed?

Consequences?

Conflict of interest policy

Code of conduct

Transparency & accountability mechanisms

# Conflict of Interest Policy

## An effective policy includes:

- a clear definition of 'conflict of interest' that includes the definition of 'conflicting motives' will provide clear direction to Council, staff, contractors and members on what the Nation considers **fair**, **equitable** and **transparent** treatment;
- requirement for Councillors to annually disclose their private interests that could result in a conflict of interest;
- requirement for officers, committee members, employees, contractors and agents to disclose as soon as possible any situations that could result in a conflict of interest;
- restrictions on the acceptance of gifts and benefits that may influence the decision making of a person with regards to their duties and responsibilities for the Nation;
- direction on who ultimately decides if a conflict of interest exists (real, perceived, potential) – Council for councillors, committee members, officers, and major contractors; direct supervisors and department managers for staff and contractors;
- procedures on how to manage and document conflicts of interest will provide clear direction to Council, staff, contractors, agents on how conflicts of interest can be **avoided** or **managed**; and
- consequences for not complying with the conflict of interest policy.

# Conflict of Interest Policy

Effective procedures include:

Avoiding a conflict of interest: Example: A person can sell their interest in the entity that is causing the conflict of interest or have the interest be managed by an independent party **at arms length**. Have to assess how *realistic* this is...

*A newly elected Chief is made aware that his ownership in a business that the Nation uses as a major supplier creates a conflict of interest. The Chief agrees to 'sell' his ownership in the business and 'sells' it to his 90 year old mother. Does this really remove the conflict? Has the Chief really created a distance between himself and the business?*



# Conflict of Interest Policy

Effective procedures include:

Managing a conflict of interest: A person with conflict of interest must not be involved or receive any information related to the area that is creating a conflict of interest. In the example of a councillor, the councillor would not receive the meeting material that relates to the conflict of interest area. They would also recuse (remove) themselves physically and practically from any discussions and decisions related to the conflict of interest. This would all be documented in the Council's meeting minutes. The councillor with the conflict of interest would not receive the minutes related to the conflict.

*Food for thought* – even if the person is out of the room and does not vote, are they still able to influence the decision-makers around the table.

*Example* – a councillor with significant ties and support (votes) amongst membership may recuse/remove themselves but Council may still want to 'keep the councillor happy' in order to boost and/or maintain membership's support for Council.

# Conflict of Interest Policy

So, what can a Nation do about that? Build the trust of members by having integrity in the administrative procedures that conflicts of interest are and will continue to be effectively managed so all members, councillors, officers, staff, committee members, contractors and agents are treated in a **fair, equitable** and **transparent** way and the Nation's best interests are always behind all decisions.

**This is the heart of having good governance and finance practices (fair, equitable and transparent policies on housing, procurement, hiring, letting go, etc.)**

## Conflict of Interest Policy –Gifts and Benefits

**G** – is this gift GENUINE, meaning that it is related to something I have done as part of my responsibilities for the Nation (and not something I asked for, encouraged, or hinted at);

**I** – if I accept this gift, can I still think and act INDEPENDENTLY in doing my job/role, without being influenced to do something I would not otherwise do;

**F** – if I accept this gift, am I still FREE and clear of any obligation of doing something in return for the person/business who gave me the gift;

**T** – if I accept this gift, am I willing to declare it and be TRANSPARENT to my supervisor, Council, Nation, family and anyone else, about where I got it and why.

# Managing Conflicts of Interest – Key Takeaways

Other important mechanisms for managing conflicts of interest:

1. Having a **code of conduct** in place that guides the actions, decisions and behaviour of councillors, officers, committee members, staff, contractors, agents;
2. **Training, training, training**, on a regular basis, on the conflicts of interest policy and the code of conduct for all councillors, officers, committee members, staff, contractors, agents;
3. **Communication, communication, communication** to members on the Nation's conflicts of interest policy and code of conduct;
4. Having and using **good governance and finance policies** around roles, responsibilities, procurement, hiring, letting go, segregation of duties, whistleblower, to name a few, removes confusion and builds process, accountability and transparency.

## Managing Conflicts of Interest – In Practice

In *practice*, how will the Conflict of Interest Policy work?

Recurring conflicts  
of interest

Council's ability to  
have quorum

Annually vs.  
ongoing

## Case Study # 2 – I Heard It In the Wind...

The Social Assistance Manager's cousin has been receiving social assistance for a number of years. The Social Assistance Manager was walking with the receptionist. They overheard the manager's mother speaking with her aunt that this cousin recently began working as a builder in a neighboring town. The Social Assistance Manager is aware that the cousin has not declared this to the Social Assistance department. The Nation's Social Assistance Policy states that changes to a person's income or employment status must be declared as soon as they arise.

At your table, discuss:

1. Is the Social Assistance Manager under obligation to declare this fact about her cousin's employment to her Director? (Is there a real, perceived, potential or no conflict of interest?) Explain your answer.
2. How do you recommend that this situation be managed, if at all?
3. What if the receptionist had not been there and only the manager heard the discussion? Are there any ethical concerns?

**After 5 minutes**, name a spokesperson to share your table's discussion.

## Case Study # 3 – It's For the Greater Good...

The persons at your table represent members of Council of a First Nation. It has come to your attention that a staff member is saying that the Nation's contracting and procurement processes are corrupt.

The Nation has a contract for building maintenance. The Nation has a Procurement Policy that requires the Nation to go to a competitive process for contracts over \$5,000. Expenses under \$5,000 can be approved by managers without a competitive process.

Upon questioning the staff member, you learn that the manager responsible for contracting building maintenance has an uncle who has just bought a small building maintenance company. Further questioning shows that for the last 4 months, the manager stopped using the Nation's regular supplier and used her uncle's building maintenance company for one-off maintenance requirements. The value of the services was under \$5,000 and the manager explained that the cost of her uncle's company's services are the same as the Nation's regular supplier. She further explains that she feels her uncle's company is more reliable than the other supplier. The manager did not advise anyone of this change in supplier.

## Key Points



Managing conflicts of interest is a fluid, **ongoing** process



Clear conflict of interest **policies** and **procedures** are essential



**Council** ultimately decides if conflict of interest exists and needs to be managed, if there is a 'grey' area



Regular **training** and **communication** for all builds trust and transparency



Treat everyone **equally** regardless of family, age, political ties, business ownership





**Questions? Let's talk...**

**First Nations Financial Management Board**

**604.925.6665**

**Toll free: 877.925.6665**



**LE CONSEIL  
DE GESTION  
FINANCIÈRE des  
Premières Nations**

Friday, June 19/2020

12 pm - 2 pm EST

9 am - 11 am PST

#IndigenousLawConversation

# A National **Online Conversation** on Indigenous Laws

## THE FEDERAL *CONTRAVENTIONS ACT*: a possible tool for enforcement?

THIS EXPLORATORY DISCUSSION WILL EXAMINE THE FOLLOWING ISSUES:

The challenges for Indigenous governments in using summary conviction offence procedures

The potential advantages of the federal *Contraventions Act* in dealing with minor offences

How might Indigenous governments adopt the federal *Contraventions Act*, or similar enforcement systems

**BERRY HYKIN**

Woodward & Co.



**MURRAY BROWNE**

Woodward & Co.



**ANDREW BEYNON**

First Nations Land Management  
Resource Centre Inc.



**REGISTER:**

To register, please visit:

<https://bit.ly/IndigenousLawConversation-English>

**HOSTED BY:**

 **FIRST NATIONS  
LAND MANAGEMENT  
RESOURCE CENTRE**

[www.labrc.com](http://www.labrc.com)

**LANDS SECTOR QUARTERLY REPORT**

for Quarter Ending March 31, 2020

To

Chief and Council

Prepared by

Stephen Jimmie, Brandi O'Flynn, Geraldine Bangham

Jerrica Joe

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## SECTOR SUMMARY

The Lands Sector is responsible for developing and implementing a land and environmental governance structure that will enable the implementation of the *Lower Nicola Indian Band Land Code*. Developing a land and environmental governance structure includes the following activities:

- Establishment, implementation, and maintenance of the legislative, regulatory, and policy structure, including an environmental assessment and protection regime;
- Enforcement which includes enforcing LNIB laws (both environmental laws and other land laws) and the prosecution of those in contravention of LNIB laws; and
- Undertaking of periodic evaluation of LNIB's land governance system.

## SECTOR PLAN OVERVIEW

The Lands Sector 5-Year Plan is weighted towards the implementation of the Land Code. The Plan is separated into key focus areas which include land governance, environmental stewardship, natural resource management on reserve, the resolution of *Indian Act* legacy issues, geographical information systems development, land administration, and membership.

Key Focus Areas	Key Focus Area Goals
Land Governance	<ol style="list-style-type: none"> <li>1. Improved transparency of the Lands Department.</li> <li>2. Improved accountability of the Lands Department.</li> <li>3. Improved efficiency through capacity development and short-term land governance guidelines.</li> <li>4. Establish long-term land governance guidelines through laws.</li> </ol>
Environmental Management	<ol style="list-style-type: none"> <li>1. Improved efficiency by outsourcing for environmental management and environmental assessment services.</li> <li>2. Improve capacity of staff by allowing them to self-studying by reviewing courselets available on First Nation Land Management Resource Centre website.</li> <li>3. Improved efficiency through capacity development and short-term environmental management guidelines.</li> </ol>
Natural Resource Management on Reserve	<ol style="list-style-type: none"> <li>1. Improved efficiency through capacity development and short-term natural resource management guidelines.</li> </ol>
Resolution of <i>Indian Act</i> Legacy Issues	<ol style="list-style-type: none"> <li>1. Reduce the number of membership land title issues.</li> <li>2. Eliminate all buckshee leases.</li> </ol>
Graphical Information Systems Development	<ol style="list-style-type: none"> <li>1. Improved efficiency and utilization of GIS tools.</li> </ol>

Land Administration	<ol style="list-style-type: none"> <li>1. Improved efficiency in processing land instrument applications, registrations, rent/royalty collection and compliance monitoring.</li> <li>2. Support the implementation of the Infrastructure Sector projects.</li> <li>3. Support the implementation of Administration projects.</li> <li>4. Improved efficiency regarding responses to IR access requests.</li> <li>5. Improved efficiency regarding the coordination and completion of surveys.</li> <li>6. Improved efficiency regarding responses to land inquiries and requests from the membership.</li> <li>7. Ensure all rental buildings are maintained to commercial standards.</li> </ol>
Membership	<ol style="list-style-type: none"> <li>1. Timely administration of status card applications and renewals regarding Indian Registry.</li> <li>2. Amend the Membership Transfer Policy to improve efficiency of the transfer process.</li> </ol>

## MAJOR ACHIEVEMENTS

### LAND GOVERNANCE

#### *Lands Sector Plans (towards Efficiency, Transparency, and Accountability)*

- Lands Researcher position posted November 2019, scheduled interviews in April 2020
- Lands Agent position posted in November 2019 and still vacant
- 2020-2021 Annual Work Plan developed and delivered to Executive Director in February 2020
- Lands Sector 5-Year Plan will be revised to reflect the 2020-2021 Work Plan in June 2020

#### *Lands Management Advisory Committee*

- Quarterly Reports up to Q4 completed and delivered to ED

#### *Funding Received for Land Use Planning Initiative, Indigenous Services Canada, Budget \$168,000*

- Funding contributed to the Land Use Planning, Traditional Holdings Project, Subdivision, Development and Servicing Law, Land Use and Zoning Law, and Environmental Management Plan
- LNIB Land Use Plan and Community Economic Development Plan
  - Additional \$57,000 received from Rural Dividend Fund for Community Economic Development Planning (Budget of \$64,250)
  - Urban Systems engaged and projects combined into one scope of work to increase efficiency
  - Community engagement session delayed due to COVID-19 Restrictions
  - Second draft of the Land Use Plan anticipated April 2020
  - Final Land Use Plan and reporting to ISC delayed due to COVID-19 Restrictions that impact community meetings
  - Project completion pending future community engagement
  - Community Economic Development Plan due date is March 22, 2021
- Traditional Holdings Project

- Angie Bain and Gretchen Fox engaged for project
- Final report delivered in March 2020, presentation to LMAC and Council anticipated for April 2020
- Phase 2 of the project anticipated to start in May 2020
- Subdivision, Development and Servicing Law
  - Land Forest People Consulting engaged to support law development
  - Final Subdivision, Development and Servicing Law delayed due to COVID-19 Restrictions that impact community meetings
  - Project completion pending future community engagement
- Land Use and Zoning Law Development
  - Land Forest People Consulting engaged to support law development
  - Final Land Use and Zoning Law delayed due to COVID-19 Restrictions that impact community meetings
  - Project completion pending future community engagement
- Environmental Management Plan
  - Land Forest People Consulting engaged to support plan development
  - Funding received for Land Use Planning was utilized to advance the draft already received as part of the 2018-2019 Solid Waste Management Planning project
  - An updated draft was received dated March 31, 2020 and another draft is anticipated in June 2020.
  - The final Environmental Management Plan is delayed due to COVID-19 Restrictions that impact community meetings
  - Project completion pending future community engagement

#### *Allotment Law Development*

- Document review initiated and ongoing, preliminary summarized Draft of Law Terms circulated among the Traditional Holdings Project Team, pending outcomes of Traditional Holdings Project
- First draft anticipated in Fall 2020 and will come from progress on Phase 2 of the Traditional Holdings Project

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## ENVIRONMENTAL MANAGEMENT

### *Godey Pit Salt Contamination*

- LNIB required the Province to agree to meet at least twice in 2019 to discuss damages suffered by the LNIB, including to Joeyaska residents. These meetings didn't occur but we propose to hold these meetings after we receive the site report from the Ministry of Transportation and Infrastructure; anticipate meeting in Spring 2020.

### *Environmental Management Database*

- Initiated development of a database with the support of Gandalf Consulting; budget of \$7,550
- Database will identify, describe, and locate all Areas of Potential Environmental Concern (APEC) and Areas of Environmental Concern (AEC); structure and content under review by Urban Systems for import into our GIS system and inclusion in our Land Use Plan Mapping

- Work plans to be developed for each APEC and AEC
- GIS database setup and instructions for its management provided by Urban Systems in December 2019
- The database was updated and accessible through Lightship now by Lands staff

*Proposal for Solid Waste Management Planning, First Nation Land Management Resource Centre*

- Budget of \$51,300, application made October 1, 2019 with support from Land Forest People Consulting
- Proposal focus: next phase of solid waste management planning and implementation including education, a composting program, illegal dumping and an Enforcement Law
- Project application approved and initiated in November 2019
- Project expected to be complete by March 31, 2020 but now extended due to COVID-19 Restrictions that impact community meetings
- Project completion pending future community engagement

## NATURAL RESOURCE MANAGEMENT ON RESERVE

*Timber Permit Policy Amendment*

- Policy amended to include a permit for fuel management activities, ratified by Council September 17, 2019
- Policy will be redrafted and included as a schedule to the Subdivision, Development and Servicing Law. First draft received in December 2019
- General Requirements for Timber Permitting now developed and included in the Subdivision, Development and Servicing Law

## RESOLUTION OF INDIAN ACT LEGACY ISSUES

*Buckshee Lease –Lot 145, Nicola Mameet IR1 – SCFSS Building*

- Issue corrected and new lease with LNIB Dev Corp contemplated but no action to date
- Actions on other buckshee leases on hold and subject to the outcome of the Traditional Holdings Project

*Survey Issues*

- Planning in progress to address Shulus Community survey issues
- List of CMHC survey issues in-progress
- Planning in progress related to registering unallocated lots in the First Nation Land Registry

## GRAPHICAL INFORMATION SYSTEM DEVELOPMENT

*Proposal for Land Survey Capacity Development, Survey General Branch – Natural Resources Canada*

- Budget of \$62,000, application made January 2019
- Proposal focus: providing LNIB participants with 12 weeks in community capacity development spanned over a 24-month period, not selected for 2019-2020 intake, but awaiting funder response for 2020-2021 intake – response anticipated for February 28, 2020
- Presentation on revised approach by the Survey General Branch cancelled due to the COVID-19 Restrictions



### *Asset Management Program/Information Management Needs Review & Strategic Capacity Development Project*

- Project budget of \$105,500 funded internally by LNIB Administration; Urban Systems engaged for project
- Project focus: streamlining digital systems and internal staff capacity to collect, store, manage, access and utilize central information to support on-going decision making
- GIS development included in the project:
- Projects complete and implementation activities anticipated in Spring 2020

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## LAND ADMINISTRATION

### *Lands Property Management Reports*

- Reports for January, February and March complete and delivered to ED.

### *Infrastructure Project Support*

- Working on Zoht IR4 Waterline Easements
- Supporting Zoht IR4 Reservoir planning activities
- Working on Industrial Park Waterline Easements
- Working on Domestic Water System (DWS) East Loop 10 Lots Waterline Easements
- Supporting Irrigation Ditch Water Management activities
- Supporting Joeyaska IR2 road and culvert planning activities
- Supporting Joeyaska IR2 Reservoir planning activities
- Supporting bus stop relocation planning activities
- Supporting environmental compliance planning activities for LNIB fuel tank

### *Housing Project Support*

- Coordinating outstanding CMHC Home Lot Transfers – 35 on current list
- Supporting the First Nations Market Housing Fund application and process

### *Administration Project Support*

- Research on Lots 101 & 103, Nicola Mameet in-progress for New Administration Building
- Review of LNIB Bylaws complete and require further management

### *Environmental Management*

- Coordinating asbestos remediation on Lot 105

### *IR Access Requests*

- FLNRO Range Use Plan Tenure Monitoring
- FLNRO and STC Irrigation Ditch Flow Monitoring
- STC Surveying of Guichon Creek for Coho
- TMP Natural Hazard Ground Inspection
- BC Hydro Vegetation Maintenance Zoht IR No.4

### Survey Requests

- Nicola Mameet IR No.1 Lot 209-7 Subdivision: *complete*
- Zoht IR No.4 Waterline Survey: *complete*
- Pipeul IR No.3 Re-Survey: *complete*
- Nicola Mameet IR No.1 Lot 376: *tabled*

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## MEMBERSHIP

### Status Cards

- 18 Certificate of Indian Status (CIS) Cards processed to date
- 20 Secure Certificate of Indian Status (SCIS) Applications assisted to date

### New Indian Registry Administrators (IRA)

- Two new Indian Registry Administrators now successfully appointed and approved to administer and maintain the LNIB Indian Registry Department. Lower Nicola Indian Band now has three Indian Registry Administrators (IRA).

### Membership Changes

- Total membership changes:
  - 1286 members at Dec 2019
  - 1290 members at March 2020 1290

## CHALLENGES

1. *COVID-19 Restrictions that impact community meetings make it impossible to complete several projects. These projects will advance as much as possible but will not be complete until community engagement activities can resume.*
2. *Membership requests regarding land issues to ED and Council*
  - 10 Year (2016-2025) Replaceable Grazing Licence (RAN076730), MFLNRO
    - Outside the scope of the work plan.
    - An off-reserve Crown Land Tenure that requires development and implementation of a Range Use Plan. Range Use Plan developed and ratified in January 2019 to satisfy requirements of the Licence.
    - Collaboration with members in progress to allow the members assume responsibility of the tenure.
3. *Recruiting qualified people for the Lands Agent position*
4. *Lack of office space for new employees*

## **LNIB ENFORCEMENT LAW**

**\*LARGER PRINT VERSION WITH TRACKED CHANGES\***

***(PAGE NUMBERS MAY NOT MATCH THOSE IN OTHER DRAFT VERSIONS)***

**LNIB ENFORCEMENT LAW**

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## 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 and 45.3 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, to enable appropriate enforcement issues and disputes to be dealt with through a community justice process, and to create ticketing processes or similar enforcement mechanisms or to incorporate such processes or enforcement mechanisms from provincial or local government sources;

**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;

**Commented [SJ1]:** Suggestion to add LNIB related statements to the preamble. Angie and Gretchen will work on some draft wording for all law preambles. Eg. Vision or Mission Statement, UNDRIP, etc.

## LNIB ENFORCEMENT LAW

**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.

#### 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.

## LNIB ENFORCEMENT LAW

### Definitions

5. (1) In this Law:

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

**Commented [SJ2]:** Changed to Offence Report

“community justice process” means a process described at section 13;

“compliance notice” means a notice issued in accordance with section 22;

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

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

~~means~~ “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 14;

“judge” means a judge presiding over a court;

“justice of the peace” means a justice of the peace appointed under section 12(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;

“offence report” means the instrument that sets out the information confirming a peace officer’s reasonable and probable grounds to believe a Person has committed an offence; “offence report” has the same meaning and purpose as “an information” as that term is used in the Criminal Code;

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

“place” means



## LNIB ENFORCEMENT LAW

- (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;

“prosecutor” means

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

“Schedule B” means the Schedule to this Law that sets out the fee to cover the costs of facilitating and adjudicating a dispute of a compliance notice or ticket;

“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 22.

(2) The term “submit an offence report” has the same meaning as “lay an information” as that term is used in the Criminal Code.

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

## LNIB ENFORCEMENT LAW

### 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 reference in an enactment to a section is a reference to a section of this Law.
- (3) A reference in this Law to a subsection or paragraph is a reference to a subsection or paragraph of the section or subsection in which the reference occurs.
- (4) 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.
- (5) 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.
- (5)(6) If a reference in this Law is followed by italicized words in square brackets indicating the subject matter of the provision, the words in square brackets are provided for convenience of reference only and are not to be considered an interpretation of the provision.

Commented [SJ3]: New addition

Commented [SJ4]: New Addition

### 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

## LNIB ENFORCEMENT LAW

- (b) a failure of LNIB, a LNIB official or their delegate to do something within the required time.

### PART 2- ADMINISTRATIVE PROVISIONS

#### Delegation

9. The Lands Manager may delegate his or her duties set out at section 31(1) to the Lands Department staff.

### **PART 32 - SCHEDULES**

#### **Schedules**

10. (1) Council may approve additional obligations or procedures related to the subject matter of this Law as a schedule.

(2) An obligation or procedure added as a schedule to this Law under subsection (1)

(a) has the force of law; and

(b) must not be approved except in accordance with section 7 of the Land Code and, if the schedule relates to a matter listed in sections 12.3 (a) through (i) of the Land Code, in accordance with section 12 of the Land Code.

~~9. Schedule A forms part of this Law and has the force of law.~~

~~(2) A reference to "this Law" includes Schedule A.~~

~~Despite section 36, Council may amend Schedule A by Resolution.~~

### **PART 4- OFFENCES**

#### **Offences generally**

~~10-11.~~ (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.

## LNIB ENFORCEMENT LAW

- (2) An enforcement officer may commence a proceeding for an offence against a Law by
- (a) issuing a ticket in accordance with section 22;
  - (b) issuing a compliance notice in accordance with section 22; or
  - (c) [laying an information](#) [submit an offence report](#) for a prosecution before a justice of the peace or a Court in accordance with section 19.
- (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 5 - JUSTICES OF THE PEACE

### Justices of the peace

~~11.12.~~ (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.

[\(2\) Council's appointment of a justice of the peace under subsection \(1\) must set out terms regarding tenure, remuneration and removal.](#)

~~(2)~~(3) 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)~~(4) 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;
- (c) whether a fine or surcharge is due; and

**Commented [SJ5]:** Consider adding another decision maker like an elder, or someone respected from the community.

Adjudicator, Decision Maker, Decision Making Body?

More than one justice?

**Commented [HV6R5]:** See section 13.

Also, Council is entitled to appoint more than one JOP under section 12(1).

## LNIB ENFORCEMENT LAW

(d) any other related decisions.

~~(4)~~(5) 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)~~(6) 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)~~(7) In making an order pursuant to subsection (6), 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.

### Community justice process

13. (1) Council may implement a community justice process by approving a schedule to this Law that, at a minimum, addresses the following:

- (a) the composition, eligibility criteria, tenure and remuneration of the person or body that will administer the process;
- (b) the manner in which Council will appoint and remove the person or members of the body referenced at paragraph (a);
- (c) the rules of procedure and powers of the person or body that will administer the process;

## LNIB ENFORCEMENT LAW

(d) the procedure to initiate a matter under the community justice process.

(2) Without restricting LNIB's discretion to pursue the prosecution of an offence, a community justice process may serve as a substitute for prosecution under section 19.

**Commented [HV7]:** Step hen, is there a sense that this should be voluntary? i.e. an alleged offender must agree to participate in this process? This question can be left to the schedule if you're not sure.

## PART 6 - ENFORCEMENT OFFICERS

### Appointing enforcement officers

~~12.14.~~ (1) In addition to an enforcement officer appointed or designated under another Law, LNIB appoints the following as enforcement officers:

~~(a) any RCMP officer or~~ a peace officer;

~~(a)(b) the Lands Manager;~~ and

~~(c) any individual or company designated by Council by resolution.~~

(2) Unless otherwise stated in a specific Law or the terms of a specific appointment, every enforcement officer appointed under this Part has the authority to enforce the provisions of any Law.

### Authority of enforcement officers

~~13.15.~~ (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~~

## LNIB ENFORCEMENT LAW

(ii) an unoccupied ~~place~~ building or structure other than a dwelling, or

~~(i)~~(iii) a vehicle, vessel, or trailer, or

~~(ii)~~(iv) a dwelling with the consent of the occupier or if authorized by another Law or, subject to section 16, a warrant issued by a court;

- (d) in a manner that is consistent with enforcement measures under federal legislation and subject to sections 16 and 17, 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 17, 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;

**Commented [SJ8]:** “pre  
mises” removed and  
reworded

## LNIB ENFORCEMENT LAW

- (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
  - (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:



## LNIB ENFORCEMENT LAW

- (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

- ~~14.16.~~ (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

- ~~15.17.~~ (1) An enforcement officer may copy or, subject to subsection (2), remove a document, record or thing examined under section 15(1) or under the authority of a warrant under section 16 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
  - (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

## LNIB ENFORCEMENT LAW

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 7 - PROSECUTION OF OFFENCES

### Completing an [information offence report](#)

- ~~16-18.~~ (1) An enforcement officer or other Person who believes on reasonable grounds that a Person has committed an offence may complete an [information offence report](#) regarding the alleged offence.
- (2) An [offence report information](#) must be in the form approved by Council and made under oath.

### Prosecution of offences

- ~~17-19.~~ (1) The Lands Manager or an enforcement officer may, on reasonable and probable grounds, ~~lay an information~~ [submit an offence report](#) 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 an offence report](#) and the prosecution of an offence, they must consider:

## LNIB ENFORCEMENT LAW

- (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
  - (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~~submitting an offence report

~~18-20.~~ If a Law does not specify the limitation period for ~~laying an information~~submitting an offence report, the Lands Manager or an enforcement officer may not ~~lay an information~~submit an offence report more than six months after ~~the commission of an alleged offence is discovered. a LNIB official discovers the commission of the alleged offence.~~

### Application of the Criminal Code

~~19-21.~~ The summary conviction proceedings of Part XXVII of the Criminal Code apply to the prosecution of offences.

## PART 8 - COMPLIANCE NOTICES AND TICKETS

### Issuing a compliance notice or ticket

~~20-22.~~ (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.

## LNIB ENFORCEMENT LAW

- (2) A compliance notice or a ticket must be issued to a 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.
- (4)(5) A compliance notice or ticket may not be enforced unless it is served in accordance with section 25.

### Contents of a compliance notice and a ticket

- 21-23. (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;
  - (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,

## LNIB ENFORCEMENT LAW

- (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.

### Form of compliance notice or ticket

22-24. A compliance notice or ticket may be completed, recorded, issued and stored:

- (a) in electronic format by electronic means; or

## LNIB ENFORCEMENT LAW

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

### Serving a compliance notice or a ticket

~~23-25.~~ Subject to section 26, 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;
- (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

24-26. (1) If a compliance notice or ticket is not served in accordance with section 25, a proceeding or an action in relation to the compliance notice or ticket is not invalidated if:

- (a) the content of the compliance notice or ticket was known by the named person within the time allowed for service;
- (b) the named person consents in writing; or
- (c) the failure to serve in accordance with section 25 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.

## LNIB ENFORCEMENT LAW

### Complying with or disputing a compliance notice

~~25-27.~~ Subject to section 35 [*extension of time limits*] and the period of time specified in the compliance notice under section 23(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 30.

### Paying or disputing a ticket

~~26-28.~~ (1) Subject to section 35 [*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
- (b) dispute the allegation contained in the ticket in accordance with section 30.

(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

~~27-29.~~ (1) A named person who pays a fine in compliance with this Law and with 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.

(2) A conviction is not required to be drawn up or entered for a named person under subsection (1) unless it is required under the Law contravened or by the named person convicted or a prosecutor.

## LNIB ENFORCEMENT LAW

### Notice of dispute of compliance notice or ticket

~~28-30.~~ (1) A named person may dispute the allegation contained in a compliance notice or ticket by submitting the fee in accordance with Schedule B and a written notice of dispute ~~within the 14 days after service~~ in accordance with subsection (2), which notice must include

- (a) an address for the named person;
  - (b) sufficient information to identify the compliance notice or ticket and the alleged contravention being disputed; and
  - (c) a description of the basis upon which the named person disputes the compliance notice or ticket.
- (2) A notice of dispute under subsection (1) must be submitted within the 14 days after service ~~may be submitted by~~ mailing or hand-delivering the notice to an employee at the address set out in the compliance notice or ticket.
- (3) A notice that is mailed under subsection (2) will be deemed to have been delivered on the date that it was mailed.

**Commented [HV9]:** Stephen, I had to accept the track changes here to fix the formatting, so I highlighted the new content.

**Commented [HV10]:** Can we identify the office/department where this notice will go?

**Commented [SJ11R10]:** Lands Department Office

### Review of notice of dispute

~~31. appearing in person at the location set out in the compliance notice or ticket to give notice of dispute. Where a notice of dispute is given in accordance with section 30, the Lands Manager will~~

- (a) screen the notice for any administrative errors, oversights or apparent misunderstandings in relation to the notice or the underlying compliance notice or ticket that might be resolved without referring the notice to a justice of the peace or judge; and
- (b) contact the named person for any required follow-up.

### Hearing of dispute



## LNIB ENFORCEMENT LAW

~~29-32.~~ (1) For a notice of dispute that is not resolved under section 31, is given in accordance with subsection (1), the Lands Manager or Council must

- (a) within seven days after receiving the notice of dispute, of which period may be extended to accommodate a reasonable effort to resolve any issues identified under section 31, 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.
- (2) If a compliance notice or ticket is referred pursuant to subsection (1), LNIB must confirm that the named person receives a notice of the hearing specifying a time and place for the appearance of the named person before the justice of the peace or judge.
- (3) If the named person appears at the time and place specified in the notice under subsection (2), 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 named person.
- (4) A justice of the peace or judge hearing a dispute on a compliance notice or ticket may:
- (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.
- (5) 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

## LNIB ENFORCEMENT LAW

- (b) confirm the compliance notice or ticket.
- (6) Unless it is required under the Law contravened or by the named person convicted or a prosecutor, a conviction is not required to be drawn up or entered if the named person:
- (a) has appeared before a justice of the peace or judge at the time and place specified in the notice under subsection (2) and pleaded guilty to or been found guilty of the offence with which the named person was charged; or
  - (b) is deemed to have pleaded guilty to the offence with which the named person was charged in accordance with section 34(2).

### Refund of fee to dispute compliance notice or ticket

33. (1) The Lands Manager will refund a named person's fee submitted under section 30(1) to dispute a compliance notice or ticket 30if:

- (a) the matter is resolved under section 31; or
- (b) if a justice of the peace or judge reverses the compliance notice or ticket under section 32(5)(a).

### **Failure to appear at hearing**

~~30-34.~~ (1) A named person is deemed to have not disputed a compliance notice or ticket if the named 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 31(2), or at a new time and place set under section 35(4)(c).

- (2) If a named person is deemed under subsection (1) to have not disputed the compliance notice or ticket, the named person is deemed to have pleaded guilty to the offence with which the named person was charged, and any fine amount indicated on the ticket is immediately payable by the named person to LNIB.

### **Time extensions**

~~31-35.~~ (1) A named person who 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 (2), may apply to a justice of the

## LNIB ENFORCEMENT LAW

peace or court for a time extension in the circumstances established by this section.

- (2) In the case of a named person who did not dispute the charge, the named person may only apply for a time extension under this section if:
- (a) the named person has, through no fault of that named person, not had an opportunity to dispute the charge; and
  - (b) not more than ~~thirty~~ 30 (~~30~~) days have passed since the end of the period referred to in section 27 or 28.
- (3) In the case of a named person who failed to appear before a justice of the peace or judge to dispute the charge, the named person may only apply for a time extension under this section if:
- (a) the failure was through no fault of the named person; and
  - (b) not more than ~~thirty~~ 30 (~~30~~) days have passed since the date specified in the notice under section 31(2).
- (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 subsection (2) or subsection (3) have been met may:
- (a) strike out the conviction, if any;
  - (b) in the case of a named person who did not dispute the charge, allow the named person 14 days after the date the conviction is struck to dispute the charge in accordance with section 30 (~~#~~);  
or
  - (c) in the case of a named person who failed to appear to dispute the charge, set a new time and place for the appearance of the named 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 named person a certificate of the fact in a form approved by Council.

## LNIB ENFORCEMENT LAW

### Collections

~~32-36.~~ 36. If a ~~person~~Person fails to pay a fine under this Law, the Lands Manager is authorized to send any unpaid fine to a collection agency ~~de~~ ~~the following thirt~~30y (30) days after having sent a warning letter to the ~~person~~Person.

## PART 9 – OFFENCES AND PENALTIES

### Offences

~~33-37.~~ 37. A Person commits an offence by doing any of the following:

- (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 with an order under section 31(5);
- (c) provides false or misleading information to an enforcement officer, a justice of the peace, a judge or to the person or body that administers a community justice process; or
- (d) otherwise contravenes this Law.

### Penalty

~~34-38.~~ 38. A Person who commits an offence under section 37 is liable, on summary conviction, to a fine not exceeding \$2,000 or imprisonment for a term not exceeding six months.

## PART 10 - GENERAL PROVISIONS

### Limitation of liability

~~35-39.~~ 39. (1) An enforcement officer or any other person assisting an enforcement officer is not liable for anything done or omitted in good faith execution of any duty or power under this Law.

## LNIB ENFORCEMENT LAW

(2) A Person may not bring an action for damages ~~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

- ~~36-40.~~ (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 11- AMENDMENTS

### Substantive amendments to this Law

41. (1) With the exception of [an amendment to the listed schedules at subsection \(2\) and](#) a minor amendment described at section 42, an amendment or repeal of this Law must only be made by Council as recommended by the Lands [Management](#) Advisory Committee in accordance with the Land Code.
- [\(2\) Council may amend Schedule A and Schedule B by Resolution; for certainty, any other schedule added to this Law must be approved in accordance with subsection \(1\).](#)

### Minor amendments

- ~~37-42.~~ (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;

**LNIB ENFORCEMENT LAW**

- (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 12 - COMING INTO FORCE**

**Coming into force**

~~38.43.~~ 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

_____	_____
_____	_____
_____	_____

**Quorum consists of X Council members.**

**LNIB ENFORCEMENT LAW**

**SCHEDULE A**

**SCHEDULES OF OFFENCES AND PENALTIES**

<b>LNIB</b>			
<b>Subdivision, Development and Servicing 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>
<p><del>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:</del></p> <ul style="list-style-type: none"> <li><del>(a) the subdivision of LNIB Land;</del></li> <li><del>(b) the construction, alteration, enlargement, addition, demolition, or removal of a building, including for certainty, signs, swimming pools and decks;</del></li> <li><del>(c) the installation of a street, intersection, sewer system, water system or other infrastructure of any kind;</del></li> <li><del>(d) the clearing, grading, blasting, excavating or</del></li> </ul>	\$450	\$500	\$550



**LNIB ENFORCEMENT LAW**

<del>other alteration of LNIB Land; (e) the deposit or removal of more than 10 m<sup>3</sup> of soil; (f) the removal of trees; and (g) other activities designated by Council in a regulation.</del>			
<del>24(1)(c) failing to comply with a stop work order.</del>	<del>\$450</del>	<del>\$500</del>	<del>\$550</del>
<del>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.</del>	<del>\$450</del>	<del>\$500</del>	<del>\$550</del>
<del>25(a) providing false or misleading information in order to obtain an authorization under the Law.</del>	<del>\$300</del>	<del>\$350</del>	<del>\$400</del>
<del>25(e) contravening an order made by a court in relation to the Law.</del>	<del>\$500</del>	<del>\$550</del>	<del>\$600</del>
<del>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.</del>	<del>\$450</del>	<del>\$500</del>	<del>\$550</del>
<del>25(g) contravening the Law in any manner that is not listed under section 25 of the Law.</del>	<del>\$300</del>	<del>\$350</del>	<del>\$400</del>
<b>LNIB Enforcement Law – Fines for Tickets</b>			
<b>Prohibited Conduct</b>	<b>Discounted Fine</b>	<b>Fine</b>	<b>Surcharge (if not paid within 30 days)</b>

## LNIB ENFORCEMENT LAW

	<i>(if paid within 14 days)</i>		
15(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
15(g) failing to comply with a stop work order.	\$450	\$500	\$550
15(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
37(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
37(b) failing to comply with a compliance notice or ticket or an order under section 31(5).	\$500	\$550	\$600
37(c) <u>providing false or misleading information to an enforcement officer, a justice of the peace, a judge or to the person or body that administers a community justice process.</u> <del>32(e) contravening the Law in any manner that is not listed in section 32.</del>	<del>\$300</del> <u>\$300</u>	<del>\$350</del> <u>\$350</u>	<del>\$400</del> <u>\$400</u>
37(d) <del>contravening the Law in any manner that is not listed in section 37.</del>	\$300	\$350	\$400

**LNIB ENFORCEMENT LAW**

**SCHEDULE B**

**FEEES**

The following fee is required to help offset LNIB's administrative costs to facilitate and respond to notices of dispute submitted under section 30. As provided at section 33, this fee will be reimbursed if the dispute is resolved before being referred to a justice of the peace or judge, or if a justice of the peace or judge reverses a compliance notice or ticket under section 31(5)(a).

Notice of Dispute: \$ \_\_\_\_\_

DRAFT

