

# LNIB TICKETING AND ENFORCEMENT LAW

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Enacted on \_\_\_\_\_

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Authorized signatory for LNIB

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[NAME]

DEPOSITED IN THE REGISTRY OF LAWS

ON \_\_\_\_/\_\_\_\_/\_\_\_\_  
(Day/Mo/Year)

LNIB **TICKETING AND ENFORCEMENT LAW**

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## LNIB TICKETING AND ENFORCEMENT LAW

### PREAMBLE

#### WHEREAS:

We the S̓cwexmx (People of the Creek), are part of the Nleʔkepmx Nation:

Our sptékʷł, our origin stories, tell us that Old One, xeʔkʷúpiʔ, created our world, the tmíxʷ

Messages from Old One were sent directly to the hearts of our ancestors, the first human dreamers who learned Nleʔkepmx xitl'ix, our laws;

Old One and the qʷlqʷłqʷəłt, the Transformers, created the world we know today and taught our families how to care for it so that it would continue to provide for all the generations still to come;

Our identity is tied to our tmíxʷ, and the complex and enduring relationships we have with all human and nonhuman beings living in, on and above it;

We have, since time immemorial, held, and continue to hold, Aboriginal Title to the traditional lands of our Nation;

We are a sovereign Nation, with our own Indigenous laws, governance, culture, spirituality and vision;

We are a strong, vibrant and dynamic community and our unique history and worldview help shape our future;

We are guided by our Indigenous laws and protocols, and govern according to them. These foundational principles, written on our hearts since our world was created include the teachings of Respect (yémes), Responsibility (sʔémit), and Relationships (íumuʔstn):

We exercise sovereignty over the land, the waters, the salmon, the animals, the insects, the amphibians and all other beings and resources throughout nleʔkepmxúym'xʷ, our asserted territory;

Our laws and protocols reflect our right and responsibility to govern and steward, in our own way, as our ancestors were taught when our world was created;

Today, as in the past, our community believes that the future of our families is ours to determine. Respectful shared decision making requires free prior informed consent, meaningful engagement and consultation, recognition of the deep and important knowledge held by our community members and building and maintaining strong relationships;

We consider this our responsibility, shared by Old One to the first human dreamers. It is an obligation we have to our children, our grandchildren, our great-grandchildren, and all the generations still to come, a privilege and a duty which cannot be forgotten;

The rights and responsibilities we hold as the caretakers and stewards of our lands are reflected in the articles of the United Nations Declaration on the Rights of Indigenous

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*Peoples (UNDRIP.) We are committed to upholding principles of UNDRIP in all of our laws. Articles 4, 5, 18, 32 and 34, in particular, affirm the rights of Indigenous Peoples to self-government and decision-making according to their own legal institutions and internal procedures.*

**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;

**Commented [HV1]:** This is now addressed in the preceding recital

**AND WHEREAS** Lower Nicola India Band's ~~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;

**Commented [HV2]:** I made this change to account for self-governance being addressed at length in the preceding recital

**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, 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;

**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:

## LNIB TICKETING AND ENFORCEMENT LAW

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

#### Citation

1. The Law may be cited as the Ticketing and 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:

“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;

“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

- (a) a dwelling,

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(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 later than](#) 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.

(3) 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 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.

(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

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convenience of reference only and are not to be considered an interpretation of the provision.

### **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, 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– 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 3 - 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) subject to section 41(2), 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.

## **PART 4- OFFENCES**

### **Offences generally**

11. (1) A Person commits an offence against a Law by:



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- (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 22;
  - (b) issuing a compliance notice in accordance with section 22; or
  - (c) submitting an offence report for a prosecution before a justice of the peace or a ~~Court~~ 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

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.
- (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.
- (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
  - (d) any other related decisions.
- (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.

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- (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.
- (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.

### PART 6 – COMMUNITY JUSTICE PROCESS

**Commented [HV3]:** Stephen, this should be in its own distinct Part as it doesn't fit under justices of the peace.

#### **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;
  - (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.

### PART 76 - ENFORCEMENT OFFICERS

#### **Appointing enforcement officers**

14. (1) In addition to an enforcement officer appointed or designated under another Law, LNIB appoints the following as enforcement officers:
- (a) a peace officer;
  - (b) the Lands Manager; and

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- (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

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,
    - (ii) an unoccupied building or structure other than a dwelling,
    - (iii) a vehicle, vessel, or trailer, or
    - (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,

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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 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 a prosecutor 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:
- (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.

## LNIB TICKETING AND ENFORCEMENT LAW

### Warrants

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

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 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.

## LNIB TICKETING AND ENFORCEMENT LAW

### PART 87 - PROSECUTION OF OFFENCES

#### Completing an offence report

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

#### Prosecution of offences

19. (1) The Lands Manager or an enforcement officer may, on reasonable and probable grounds, submit an offence report on behalf of LNIB before a justice of the peace or a court that a Person has committed or is suspected of having committed an offence if the offence report has been approved by a prosecutor.
- (2) In the prosecutor's review of an offence report 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
  - (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 submitting an offence report

20. If a Law does not specify the limitation period for submitting an offence report, the Lands Manager or an enforcement officer may not submit an offence report more than six months after the commission of an alleged offence is discovered.

#### Application of the Criminal Code

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

## LNIB **TICKETING AND ENFORCEMENT LAW**

### PART 98 - COMPLIANCE NOTICES AND TICKETS

#### Issuing a compliance notice or ticket

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.
- (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.
- (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

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;
  - (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

## LNIB TICKETING AND ENFORCEMENT LAW

- (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) 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.
- (4) 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, and
    - (iii) the fine will be immediately payable to LNIB;
  - (c) the methods of paying the fine; and
  - (d) any other information prescribed by regulation.

### **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.

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

25. (1) 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) mailing the compliance notice or ticket by registered mail to the named person at the last known address for that Person; or
- (c) 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.



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- (2) In addition to the methods of service described at subsection (1), a compliance notice may be served by verbally communicating the contents of the compliance notice 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.

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

26. (1) Despite section 25, if a compliance notice or ticket is not served in accordance with that section, 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.

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

27. Subject to section 35 [*extension of time limits*], unless a named person disputes the allegation contained in a compliance notice in accordance with section 30, the named person must comply with the requirements in the compliance notice.

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

28. Subject to section 35 [*extension of time limits*], unless a named person disputes the allegation contained in a ticket in accordance with section 30, the named person must pay the applicable fine in the manner stated in the ticket.

### **Effect of paying fine**

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 by a prosecutor.

## LNIB TICKETING AND ENFORCEMENT LAW

### Notice of dispute of compliance notice or ticket

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 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 14 days after service by mailing or hand-delivering the notice to the Lands Manager 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.

### Review of notice of dispute

31. Where a notice of dispute is submitted 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

32. (1) For a dispute that is not resolved under section 31, 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.

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## LNIB TICKETING AND ENFORCEMENT LAW

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

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 32(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.

## LNIB TICKETING AND ENFORCEMENT LAW

### Time extensions

35. (1) A named person who does not dispute a 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 peace or judge 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 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 30 days have passed since the date specified in the notice under section 32(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.

### Collections

36. If a Person fails to pay a fine under this Law, the Lands Manager is authorized to send any unpaid fine to a collection agency 30 days after having sent a warning letter to the Person.

## LNIB **TICKETING AND ENFORCEMENT LAW**

### PART **109** – OFFENCES AND PENALTIES

#### Offences

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 32(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

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 **110** - GENERAL PROVISIONS

#### Limitation of liability

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

## **LNIB TICKETING AND ENFORCEMENT LAW**

(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.

### **Regulations**

40. (1) Council may make regulations it considers necessary or advisable for the purposes of this Law.
- (2) For certainty, the powers of Council under subsection (1) include the power to make regulations prescribing the form of a compliance notice and ticket and any other forms or documents necessary or advisable for the purposes of this Law.
- (3) Subsection (2) does not restrict Council from approving matters identified in that subsection by Resolution.

## **PART 124- AMENDMENTS**

### **Substantive amendments to this Law**

41. (1) With the exception of an amendment to the listed schedules provided at subsection (2) and a minor amendment described at section 42, an amendment or repeal of this Law may 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**

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;
  - (b) amendments required to reference any relevant new or amended Law;
  - (c) amendments ordered by any court of competent jurisdiction; and

**LNIB TICKETING AND ENFORCEMENT LAW**

- (d) amendments which serve to clarify this Law, where there is no reasonable dispute about the intention underlying the original provision.

**PART 132 - COMING INTO FORCE**

**Coming into force**

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~~20~~21,  
at \_\_\_\_\_, Merritt, in the Province of British Columbia.

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LNIB TICKETING AND ENFORCEMENT LAW

Stuart Jackson, kʷúkʷpi?

Connie Joe, Councilor

Bill Bose, Councilor

William Sandy, Councilor

Spence Coutlee, Councilor

Lucinda Seward, Councilor

Robin Humphrey, Councilor

Aaron Sumexheltza, Councilor

Quorum consists of ~~X~~5 Council members.

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LNIB **TICKETING AND ENFORCEMENT LAW**

**SCHEDULE A**

**SCHEDULES OF OFFENCES AND PENALTIES**

LNIB Enforcement Law – Fines for Tickets			
Prohibited Conduct	Discounted Fine <i>(if paid within 14 days)</i>	Fine	Surcharge <i>(if fine not paid within 30 days, both the fine and the Surcharge are payable)</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	<del>\$50600</del>
37(b) failing to comply with a compliance notice or ticket or an order under section 31(5).	\$500	\$550	<del>\$50600</del>
37(c) 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.	\$300	\$350	<del>\$50400</del>
37(d) contravening the Law in any manner that is not listed in section 37.	\$300	\$350	<del>\$50400</del>

**Commented [HV4]:** “surcharge” will likely be interpreted as in addition to the fine, so I changed this column to better reflect that. Including the combined amount might lead users to think the surcharge amount is in addition to the fine payable, e.g. \$1,050 instead of \$550

LNIB TICKETING AND ENFORCEMENT LAW

**SCHEDULE B**

**FEEs**

*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: ~~\$~~ \$100.00

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