

## PREAMBLE

Whereas the Kettle and Stony Point First Nation has a profound relationship with the land;

Whereas the Kettle and Stony Point First Nation has entered into the *Framework Agreement on First Nation Land Management* with Canada on February 12, 1996, as amended, and which was ratified on behalf of the government of Canada by the First Nations Land Management Act;

Whereas the Kettle and Stony Point First Nation wishes to manage its lands and resources, rather than having its lands and resources managed on its behalf under the *Indian Act*;

Whereas the Kettle and Stony Point First Nation recognizes that this community Land Code does not affect treaty or Aboriginal rights, or traditional lands;

And, whereas the Kettle and Stony Point First Nation reaffirms their statement of claim that the Chippewa Nation has never ceded their interest in the bed and water of the southern portion of Lake Huron in Ontario;

Now therefore, this Land Code is hereby enacted as the fundamental land law of the Kettle and Stony Point First Nation

## PART 1 PRELIMINARY MATTERS

### 1 Title

Title of enactment

1. The title of this enactment is the Kettle and Stony Point First Nation Land Code.

Vision and foundation

2. The principles set out in this Part and in the Preamble provide a vision and foundation to guide the social, economic, political and community development of the Kettle and Stony Point First Nation.

### 2 Interpretation

Definitions

1. The following definitions apply in this Land Code:

“Additions To Reserve Policy” or “ATR Policy” means a Federal government policy for the purpose of granting reserve status to non-reserve lands either, to rectify a legal obligation, for community growth or for creation of a new reserve;

“Band Council Remedies” means penalties and/or fees identified in existing bylaws or policies;

“Canada” means Her Majesty in right of Canada;

“Certificate of Possession” or “CP” means a certificate that is issued which demonstrates that a Member is lawfully in possession of land on the Kettle and Stony Point First Nation;

“Chief” means the lawfully elected Chief of the Kettle and Stony Point First Nation or any successor elected Chief of the Kettle and Stony Point First Nation as determined by section 74 of the *Indian Act*, as may be amended;

“Civil Remedies” means orders given by a court of law to deal with disputes;

“Common-Law Partner” means the relationship between two (2) persons who are cohabitating together in a conjugal relationship for a continuous twelve (12) month period, and “Common-Law Relationship” shall have a corresponding meaning;

“Community Land” means any First Nation land in which all members have a common interest;

“Council” means the Chief and Council of the Kettle and Stony Point First Nation or any successor elected government of the Kettle and Stony Point First Nation as determined by section 74 of the *Indian Act*, as may be amended;

“Duplicate Land Register” means the duplicate register maintained by the First Nation under section 30;

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

“Expropriation” means a taking of an interest or all interests in Kettle and Stony Point Lands for a Community Purpose through a process established by Kettle and Stony Point Law in accordance with section 15;

“Extended Family”, in respect of a person, means the person’s grandparent, parent, uncle, aunt, cousin, sister, brother, child, grandchild or spouse;

“Fair Market Value” means a price at which buyers and sellers both having reasonable knowledge of the property and being under no compulsion are willing to do business;

“Fee Simple” means private ownership of real estate in which the owner has the right to control, use, and transfer the property at will;

“First Nation” means a Band within the meaning of the *Indian Act*, namely the Kettle and Stony Point First Nation;

“First Nation Land” means any portion of Kettle and Stony Point First Nation lands that are subject to this land code pursuant to section 5, including all associated rights and all renewable and non-renewable natural resources whether on, above or below Kettle and

Stony Point First Nation lands, and also including the water and beds underlying the water;

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

“*Framework Agreement*” means the *Framework Agreement* on First Nation Land Management entered into between the Minister of Indian Affairs and Northern Development and the chiefs of fourteen (14) First Nations, including the Kettle and Stony Point First Nation, on February 12, 1996, as amended;

“Full Environmental Assessment” means the inclusion of a Phase One, Two and Three (Remediation) assessment;

“Heritage Site” means a site set aside for the preservation of historical and/or cultural identity;

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

“Lands Committee” means the Lands Committee established under this Land Code;

“Land Use Plan” means a plan detailing the different types of usages (ie. zoning, environmentally sensitive areas) of all community land within the First Nation territory;

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

“Matrimonial” or “Marriage” means the union of two (2) persons and includes marriages that are solemnized by a traditional customary, religious or civil ceremony, and/or a common-law relationship, and “Married” shall have a corresponding meaning;

“Matrimonial Home” means the property that was ordinarily occupied by the parties as their family residence;

“Matrimonial Property” means any interest in real and personal property owned by a party and used for a family purpose, which may include, but are not limited to, monetary resources, vehicles, livestock, and household assets;

“Matrimonial Real Property” means together, the Matrimonial Home and Matrimonial Property;

“Meeting of Members” means a meeting under section 13 to which the members are invited to attend;

“Member” means a person whose name appears on, or is entitled to appear on the Band Membership List in accordance with the Kettle and Stony Point First Nation Membership Code;

“Membership List” means a list of members of the Kettle and Stony Point First Nation where the First Nation determines its own membership in accordance with the Kettle and Stony Point First Nation Membership Code;

“Panel” means the Dispute Resolution Panel established under section 41.

“Ratification Vote” means a vote of eligible voters under section 14.

“Resolution” means a resolution of the Council enacted under this Land Code.

“Significant Site” means a site set aside for protection, that has been identified as sacred that is of an environmental and/or sensitive nature.

“Spouse” means a person who is married to another, whether by a traditional customary, religious or civil ceremony, and/or includes a Common-Law Partner

“Transfer Agreement” means the Individual Transfer Agreement made between the Kettle and Stony Point First Nation and Her Majesty in right of Canada, dated \_\_\_\_\_.

“Verifier” means an independent third party that is selected to oversee and ensure adherence to policies and procedures through the amendment of the Land Code.

#### Paramourncy

2. If there is an inconsistency between this Land Code and any other enactment of the First Nation, this Land Code prevails to the extent of the inconsistency.

#### Culture and traditions

3. The structures, organizations and procedures established by or under this Land Code shall be interpreted in accordance with the culture, traditions and customs of the First Nation, unless otherwise provided.

#### Language

4. The language of the First Nation may be used to clarify the meaning of any provision in this Land Code, if the meaning of that provision is not clear in English.

#### Non-abrogation

5. This Land Code does not abrogate or derogate from any Aboriginal, treaty or other rights or freedoms that pertain to the First Nation or its members.

#### Fair interpretation

6. This Land Code shall be interpreted in a fair, large and liberal manner.

#### Fiduciary relationship

7. This Land Code does not abrogate the fiduciary relationship between Her Majesty and the First Nation and its members.

#### Lands and interests affected

8. A reference to “land” in this Land Code means all rights and resources that belong to the land, and includes
  - (a) the water, beds underlying water, riparian rights, and renewable and non-renewable natural resources belonging to that land, to the extent that these are under the jurisdiction of Canada; and
  - (b) all the interests and licences granted to the First Nation by Her Majesty in right of Canada listed in the Transfer Agreement.

### 3 Authority to Govern

#### Origin of authority

1. The cultural teachings of the First Nation speak of the obligation of the people of the First Nation to care for and respect the land and the magnificent wonders of nature created on the land. By enacting this Land Code, the First Nation is re-assuming this special responsibility.

#### Flow of authority

2. The authority of the First Nation to govern its lands and resources flows from the people of the First Nation to the Chief and Council in accordance with the Kettle and Stony Point Lands Management Organizational Chart in [Appendix A](#).

### 4 Purpose

#### Purpose

1. The purpose of this Land Code is to set out the principles and administrative structures that apply to First Nation lands and by which the First Nation will exercise authority over those lands.

#### Ratification

2. The *Framework Agreement* is ratified and confirmed when this Land Code takes effect.

## 5 Description of First Nation land

### First Nation land

1. The First Nation land that is subject to this Land Code is the Indian Reserve known as Reserve #44.

### Additional lands

2. Additional lands or interests acquired by the First Nation after this Land Code takes effect, whether by land claim, purchase or other process, may be made subject to this Land Code after an environmental audit certifies that it is free of environmental hazard and safe for community use.

### Inclusion of land or interest

3. When the relevant conditions in sections 5.2 are met, the Council shall call a meeting of members under Section 11 and after receiving their input, may by enacting a law declare the land or interest to be subject to this Land Code.

## **PART 2 FIRST NATION LEGISLATION**

## 6 Law-Making Powers

### Council may make laws

1. The Council may, in accordance with this Land Code, make laws respecting the development, conservation, protection, management and administration, use and possession of First Nation lands, and interests and licences in relation to those lands. This power includes the power to make laws in relation to any matter necessary or ancillary to the making of laws in relation to First Nation land.

### Examples of laws

2. The following examples illustrate some of the laws that may be enacted:
  - (a) laws on the regulation, control and prohibition of zoning, land use, subdivision control and land development;
  - (b) laws on the creation, regulation and prohibition of interests and licences in relation to First Nation land;
  - (c) laws on environmental assessment and protection;