Moricetown Indian Band

Financial Administration Law, 2017

TABLE OF CONTENTS

PART I - Citation **1**

PART II - Interpretation and Application **1**

PART III - Administration **6**

DIVISION 1 - Council *6*

DIVISION 2 - Finance Committee *7*

DIVISION 3 - Officers and Employees *11*

DIVISION 4 - Conduct Expectations *14*

PART IV - Financial Management **16**

DIVISION 1 - Financial Plans and Annual Budgets *16*

DIVISION 2 - Financial Institution Accounts *18*

DIVISION 3 - Expenditures *19*

DIVISION 4 - General Matters *21*

DIVISION 5 - Borrowing *22*

DIVISION 6 - Risk Management *24*

DIVISION 7 - Financial Reporting *27*

DIVISION 8 - Information and Information Technology *32*

PART V - Capital Projects **34**

PART VI - Miscellaneous **37**

SCHEDULE **42**

MORICETOWN INDIAN BAND CONFLICT OF INTEREST POLICY *42*

PART I - Interpretation **42**

PART II - Councillors and Committee Members **43**

PART III - Officers and Employees **46**

PART IV - Honoraria **47**

PART V - Contractors and Agents **48**

WHEREAS:

A. Pursuant to section 9 of the *First Nations Fiscal Management Act,* the Council of a First Nation may make laws respecting the financial administration of the First Nation;

B. The Council of the Moricetown Indian Band considers it to be in the best interests of the Moricetown Indian Band to make a law for such purposes;

C. The Council of the Moricetown Indian Band enacted the *Moricetown Indian Band Financial Administration Law, 2010* on September 8, 2010 and received compliance approval of the law from the FMB on November 9, 2010; and

D. The Council of the Moricetown Indian Band now desires to repeal the *Moricetown Indian Band Financial Administration Law, 2010* and to request compliance approval of this *Moricetown Indian Band Financial Administration Law, 2017* from the FMB under section 9 of the Act,

NOW THEREFORE the Council of the Moricetown Indian Band enacts as follows:

PART I - Citation

Citation

1. This Law may be cited as the *Moricetown Indian Band Financial Administration Law, 2017*.

PART II - Interpretation and Application

Definitions

2. (1) Unless the context indicates the contrary, in this Law:

"Act" means the *First Nations Fiscal Management Act*;

"agent" means a person, who may or may not be an employee, who has been appointed by resolution to represent the First Nation in dealing with third parties;

"annual budget" means the annual budget of the First Nation that has been approved by the Council;

"annual financial statements" means the annual financial statements of the First Nation referred to in Division 7 of Part IV;

"annual report" means the annual report of the First Nation, prepared by the Council, in accordance with section 77;

"appropriation" means an allocation of money under an annual budget to the purposes for which it may be used;

"auditor" means the auditor of the First Nation appointed under section 72;

"borrowing member" means a first nation that has been accepted as a borrowing member under section 76 (2) of the Act and has not ceased to be a borrowing member under section 77 of the Act;

"capital project" means the construction, rehabilitation or replacement of the First Nation's tangible capital assets and any other major capital projects funded by local revenues in which the First Nation or its related bodies are investors;

"Chair" means the chair of the Finance Committee, appointed by the Council in accordance with subsection 12(1);

"code" means a code adopted by the First Nation under the *First Nations Oil and Gas and Moneys Management Act*, a land code adopted by the First Nation under the *First Nations Land Management Act*, or an election code adopted by the First Nation;

"COIP" means the Moricetown Conflict of Interest Policy which is attached to and which forms part of this Law;

"Council" means the Council of the First Nation;

"Councillor" means a member of the Council of the First Nation and includes the Chief of the First Nation;

"entity" means a corporation or a partnership, a joint venture or any other unincorporated association or organization, the financial transactions of which are consolidated in the annual financial statements of the First Nation in accordance with GAAP;

"executive director" means the person appointed executive director under section 17;

"Finance Committee" means the Finance Committee established under section 11;

"financial administration" means the management, supervision, control and direction of all matters relating to the financial affairs of the First Nation;

"financial competency" means the ability to read and understand financial statements that present accounting issues reasonably expected to be raised by the First Nation's financial statements;

"financial institution" means the FNFA, a bank, or a credit union;

"financial records" means all records respecting the financial administration of the First Nation, including the minutes of meetings of the Council and the Finance Committee;

"First Nation" means the Moricetown Indian Band, being a band named in the schedule to the Act;

"First Nation law" means any law, including any by-law or code, of the First Nation made by the Council or the membership of the First Nation;

"First Nation official" means a current or former Councillor, officer or employee of the First Nation;

"First Nation's financial assets" means all money and other financial assets of the First Nation;

"First Nation's lands" means all reserves of the First Nation within the meaning of the *Indian Act*;

"First Nation's records" means all records of the First Nation respecting its governance, management, operations and financial administration;

"First Nation's tangible capital assets" mean all non-financial assets of the First Nation having physical substance that

(a) are held for use in the production or supply of goods and services, for rental to others, for administrative purposes or for the development, construction, maintenance or repair of other tangible capital assets,

(b) have useful economic lives extending beyond one accounting period,

(c) are to be used on a continuing basis,

(d) are not for sale in the ordinary course of operations, and

(e) have a replacement cost of at least $25 000;

"fiscal year" means the period beginning on April 1st of one year and ending on March 31st in the next year, as set out in section 23;

"FMB" means the First Nations Financial Management Board established under the Act;

"FMB standards" means the standards established from time to time by the FMB under the Act;

"FNFA" means the First Nations Finance Authority established under the Act;

"FNTC" means the First Nations Tax Commission established under the Act;

"FNTC standards" means the standards established from time to time by the FNTC under the Act;

"GAAP" means generally accepted accounting principles of the Chartered Professional Accountants of Canada, as revised or replaced from time to time;

"indemnify" means to pay amounts required or incurred

(a) to defend an action or prosecution brought against a person in connection with the exercise or intended exercise of the person's powers or the performance or intended performance of the person's duties or functions, or

(b) to satisfy a judgment, award or penalty imposed in an action or prosecution referred to in paragraph (a);

"indemnity" means

(a) a promise to make a person whole from specified losses or costs they may suffer, or

(b) payment of compensation to make a person whole from a loss they have already suffered;

"life-cycle management program" means the program of inspection, review and planning for management of the First Nation's tangible capital assets as described in section 87;

"local revenue account" means a financial institution account into which local revenues are deposited separately from other moneys of the First Nation;

"local revenue law" means a local revenue law made by the First Nation under the Act;

"local revenues" means money raised under a local revenue law;

"multi-year financial plan" means the plan referred to in section 24;

"natural resources" means any material on or under the First Nation's lands in their natural state which when extracted has economic value;

"officer" means the executive director, senior financial officer, tax administrator and any other employee of the First Nation designated by the Council as an officer;

"other revenues" means other revenues as defined in section 3 of the *Financing Secured by Other Revenues Regulations* made under the Act;

"record" means anything on which information is recorded or stored by any means whether graphic, electronic, mechanical or otherwise;

"rehabilitation" includes alteration, extension and renovation but does not include routine maintenance;

"related body" means

(a) any agency of the First Nation,

(b) any corporation in which the First Nation has a material or controlling interest,

(c) any partnership in which the First Nation or another related body of the First Nation is a partner with a material or controlling interest, or

(d) a trust of the First Nation;

"remuneration" means any salaries, wages, commissions, bonuses, fees, honoraria and dividends and any other monetary and non-monetary benefits;

"replacement" includes substitution, in whole or in part, with another of the First Nation's tangible capital assets;

"reportable expenses" includes the costs of transportation, accommodation, meals, hospitality and incidental expenses;

"senior financial officer" means the person appointed senior financial officer under section 18;

"special purpose report" means a report described in section 71;

"standards" means the standards established from time to time under the Act; and

"tax administrator" means the person appointed tax administrator under section 19 or the First Nation's local revenue laws.

(2) Except as otherwise provided in this Law, words and expressions used in this Law have the same meanings as in the Act.

(3) Unless a word or expression is defined under subsection (1) or (2) or another provision of this Law, the definitions in the *Interpretation Act* apply.

(4) Unless otherwise specified, all references to named enactments in this Law are to enactments of the Government of Canada.

Interpretation

3.(1) In this Law, the following rules of interpretation apply:

(a) words in the singular include the plural, and words in the plural include the singular;

(b) if a word or expression is defined, other parts of speech and grammatical forms of the same word or expressions have corresponding meanings;

(c) the expression "must" is to be construed as imperative, and the expression "may" is to be construed as permissive;

(d) unless the context indicates otherwise, "including" means "including, but not limited to", and "includes" means "includes, but not limited to"; and

(e) a reference to an enactment includes any amendment or replacement of it and every regulation made under it.

(2) This Law must be considered as always speaking and where a matter or thing is expressed in the present tense, it must be applied to the circumstances as they arise, so that effect may be given to this Law according to its true spirit, intent and meaning.

(3) Words in this Law referring to an officer, by name of office or otherwise, also apply to any person designated by the Council to act in the officer's place or to any person assigned or delegated to act in the officer's place under this Law.

Posting of Public Notice

4.(1) If a public notice must be posted under this Law, the public notice is properly posted if a written notice is

(a) posted on the First Nation's website; and

(b) placed in a conspicuous and accessible place for public viewing in the principal administrative offices of the First Nation and in any other area designated by the Council.

(2) Unless expressly provided otherwise, if a public notice of a meeting must be posted under this Law the notice must be posted at least fifteen (15) days before the date of the meeting, or less where the matter is urgent.

Calculation of Time

5. In this Law, time must be calculated in accordance with the following rules:

(a) where the time limited for taking an action ends or falls on a holiday, the action may be taken on the next day that is not a holiday;

(b) where there is a reference to a number of days, not expressed as "clear days", between two events, in calculating that number of days the day on which the first event happens is excluded and the day on which the second event happens is included;

(c) where a time is expressed to begin or end at, on or within a specified day, or to continue to or until a specified day, the time includes that day;

(d) where a time is expressed to begin after or to be from a specified day, the time does not include that day; and

(e) where anything is to be done within a time after, from, of or before a specified day, the time does not include that day.

Conflict of Laws

6.(1) If there is a conflict between this Law and another First Nation law, other than a code or a local revenue law, this Law prevails.

(2) If there is a conflict between this Law and the Act, the Act prevails.

(3) If there is a conflict between this Law and a local revenue law, the local revenue law prevails.

Scope and Application

7. This Law applies to the financial administration of the First Nation.

PART III - Administration

DIVISION 1 - Council

Responsibilities of Council

8.(1) The Council is responsible for all matters relating to the financial administration of the First Nation whether or not they have been assigned or delegated to an officer, employee, committee, contractor or agent by or under this Law.

(2) Subject to paragraph 5(1)(f) of the Act, this Law and any other applicable First Nation law, the Council may delegate to any of its officers, employees, committees, contractors or agents any of its functions under this Law except the following:

(a) the approval of Council policies, procedures or directions;

(b) the appointment of members, the chair and the vice-chair of the Finance Committee;

(c) the approval of annual budgets and financial statements of the First Nation; and

(d) the approval of borrowing of the First Nation.

Council Policies, Procedures and Directions

9.(1) Subject to subsection (2), the Council may establish policies and procedures and give directions respecting any matter relating to the financial administration of the First Nation.

(2) The Council must establish policies or procedures or give directions respecting the acquisition, management and safeguarding of First Nation assets.

(3) The Council must not establish any policies or procedures or give any directions relating to the financial administration of the First Nation that are in conflict with this Law, the Act or GAAP.

(4) The Council must ensure that all human resources policies and procedures are designed and implemented to facilitate effective internal financial administration controls.

(5) The Council must document all its policies, procedures and directions and make them available to any person who is required to act in accordance with them or who may be directly affected by them.

Reporting of Remuneration and Expenses

10. Annually the senior financial officer must prepare a report separately listing the remuneration paid and reportable expenses reimbursed by the First Nation, and by any entity, to each Councillor whether such amounts are paid to the Councillor while acting in that capacity or in any other capacity.

DIVISION 2 - Finance Committee

Finance Committee Established

11.(1) The Finance Committee of the First Nation is established to provide Council with advice and recommendations in order to support Council's decision-making process respecting the financial administration of the First Nation.

(2) The Council must appoint three (3) members of the Finance Committee including at least one Councillor, a majority of whom must have financial competency, and all of whom must be independent.

(3) For purposes of this section, an individual is considered to be independent if the individual does not have a direct or indirect financial relationship with the First Nation government that could, in the opinion of Council, reasonably interfere with the exercise of independent judgment as a member of the Finance Committee.

(4) An individual does not have a financial relationship with the First Nation government as a result of the individual's receipt of the following from the First Nation:

(a) remuneration for acting in his or her capacity as a Councillor or as a member of any First Nation committee,

(b) fixed retirement compensation,

(c) payments or benefits paid in common to all First Nation members,

(d) payments or benefits paid under a program or service universally accessible to First Nation members on published terms and conditions, or

(e) payments or benefits paid from a trust arrangement according to the terms of the trust.

(5) The following individuals are not eligible to be members of the Finance Committee:

(a) an individual who is an employee of the First Nation;

(b) an individual who has an immediate family member who is an officer;

(c) an individual who provides consulting, advisory or other services to the First Nation or its related bodies as a contractor;

(d) an individual who has a dependent who provides consulting, advisory or other services to the First Nation or its related bodies as a contractor; or

(e) an individual who is a partner, owner or officer of an entity which provides accounting, consulting, legal or financial services to the First Nation or its related bodies.

(6) The Council must establish policies or procedures or give directions

(a) setting criteria to determine if an individual is eligible to be a member of the Finance Committee and is independent;

(b) requiring confirmation, before appointment, that each potential member of the Finance Committee is eligible to be a member and is independent; and

(c) requiring each member of the Finance Committee annually to sign a statement confirming that the member continues to meet the criteria referred to in paragraph (a).

(7) Subject to subsection (8), the Council must appoint Finance Committee members to hold office for staggered terms, as follows:

(a) Councillors must be appointed to the Finance Committee as soon as practicable following Council elections and must sit on the Finance Committee until the next election;

(b) non-Councillors must be appointed for three year terms, beginning on September 1 and ending on August 31 three (3) years thereafter; and

(c) notwithstanding paragraphs (a) and (b), for their first terms only, the Council must appoint Finance Committee members as soon as practicable after this law comes into effect, who must serve until

(i) the next Council election, in the case of Councillors, and

(ii) August 31 of the second full fiscal year after their appointment, in the case of non-Councillors.

(8) The Council may terminate the appointment of a member of the Finance Committee for cause, including where a member

(a) has breached this Law or the COIP;

(b) is convicted under the *Criminal Code* of an offence involving fraud or theft;

(c) has unexcused absences from three (3) consecutive Finance Committee meetings;

(d) declares bankruptcy; or

(e) fails to perform any of their duties under this law in good faith and in accordance with the terms of this law.

(9) If a Finance Committee member is removed from office, resigns or dies before the member's term of office expires, the Council must as soon as practicable appoint a new Finance Committee member to hold office for the remainder of the first member's term of office.

(10) If a Finance Committee member is unable to attend or participate in a Finance Committee meeting due to personal circumstances or a conflict of interest, and the member's absence will leave the Finance Committee without a quorum, the Council may appoint an alternate member to participate as needed, provided that the person appointed as an alternate member

(a) is a Councillor; and

(b) satisfies all of the requirements set out in this Law for being a member of the Finance Committee.

Chair and Vice-Chair

12. (1) The Council must appoint a Chair of the Finance Committee, who must be a Councillor.

(2) The Council must appoint a vice-Chair of the Finance Committee.

Finance Committee Procedures

13.(1) The quorum of the Finance Committee is two (2) Finance Committee members, including at least one (1) Councillor.

(2) Except where a Finance Committee member is not permitted to participate in a decision because of a conflict of interest, every Finance Committee member has one (1) vote in all Finance Committee decisions.

(3) In the event of a tie vote in the Finance Committee, the Chair may cast a second tie-breaking vote.

(4) Subject to subsection (5), the executive director and the senior financial officer must be notified of all Finance Committee meetings and, subject to reasonable exceptions, must attend those meetings.

(5) The executive director or the senior financial officer may be excluded from all or any part of a Finance Committee meeting by a recorded vote if

(a) the subject matter relates to a confidential personnel or performance issue respecting the executive director or the senior financial officer; or

(b) it is a meeting with the auditor.

(6) The Finance Committee must meet

(a) at least quarterly, and additionally as necessary to conduct the business of the Finance Committee; and

(b) as soon as practical after it receives the audited annual financial statements and report from the auditor.

(7) The Finance Committee must provide minutes of its meetings to the Council and report to the Council on the substance of each Finance Committee meeting as soon as practicable after each meeting.

(8) Subject to this Law and any directions given by the Council, the Finance Committee may make rules for the conduct of its meetings.

(9) After consultation with the executive director, the Finance Committee may retain a consultant to assist in the performance of any of its responsibilities.

Financial Planning Responsibilities

14.(1) The Finance Committee must carry out the following activities in respect of the financial administration of the First Nation:

(a) annually developing, and recommending to the Council for approval, the multi-year financial plan;

(b) reviewing draft annual budgets and recommending them to the Council for approval;

(c) on an ongoing basis, monitoring the financial performance of the First Nation against the annual budget and reporting any significant variations to the Council; and

(d) reviewing the quarterly financial statements and recommending them to the Council for approval.

(2) The Finance Committee may make a report or recommendations to the Council on any matter respecting the financial administration of the First Nation that is not otherwise specified to be its responsibility under this Law.

Audit Responsibilities

15. The Finance Committee must carry out the following audit activities in respect of the financial administration of the First Nation:

(a) making recommendations to the Council on the selection, engagement and performance of an auditor;

(b) receiving assurances on the independence of a proposed or appointed auditor;

(c) reviewing and making recommendations to the Council on the planning, conduct and results of audit activities;

(d) reviewing and making recommendations to the Council on the audited annual financial statements, including the audited annual financial statements respecting the local revenue account and any special purpose reports;

(e) periodically reviewing and making recommendations to the Council on policies, procedures and directions on reimbursable expenses and benefits of the Councillors, officers and employees of the First Nation;

(f) monitoring financial reporting risks and fraud risks and the effectiveness of mitigating controls for those risks taking into consideration the cost of implementing those controls;

(g) conducting a review of this Law under section 100 and, where appropriate, recommending amendments to the Council; and

(h) periodically reviewing and making recommendations to the Council on the terms of reference of the Finance Committee.

Council Assigned Responsibilities

16. The Council may assign to the Finance Committee responsibility for any other matter respecting the financial administration of the First Nation that the Council considers would benefit from the Finance Committee's involvement.

DIVISION 3 - Officers and Employees

Executive Director

17.(1) The Council must appoint a person as executive director of the First Nation and may set the terms and conditions of that appointment.

(2) Reporting to the Council, the executive director is responsible for leading the planning, organization, implementation and evaluation of the overall management of all the day-to-day operations of the First Nation, including the following duties:

(a) preparing descriptions of the powers, duties and functions of all employees of the First Nation;

(b) overseeing, supervising and directing the activities of all officers and employees of the First Nation;

(c) overseeing and administering the contracts of the First Nation;

(d) identifying, assessing, monitoring and reporting on financial reporting risks and fraud risks;

(e) monitoring and reporting on the effectiveness of mitigating controls for the risks referred to in paragraph (d) taking into consideration the cost of implementing those controls;

(f) performing any other duties of the executive director under this Law; and

(g) carrying out any other activities specified by the Council that are not contrary to the Act or inconsistent with the executive director's duties specified in this Law.

(3) The executive director may assign the performance of any of the executive director's duties or functions

(a) to an officer or employee of the First Nation; and

(b) with the approval of the Council, to a contractor or agent of the First Nation.

(4) Any assignment of duties or functions under subsection (3) does not relieve the executive director of the responsibility to ensure that these duties or functions are carried out properly.

Senior Financial Officer

18.(1) The Council must appoint a person as senior financial officer of the First Nation and may set the terms and conditions of that appointment.

(2) Reporting to the executive director, the senior financial officer is responsible for the day-to-day management of the systems of the financial administration of the First Nation, including the following duties:

(a) ensuring the financial administration systems, policies, procedures, directions and internal controls are appropriately designed and operating effectively;

(b) administering and maintaining all charts of accounts of the First Nation;

(c) preparing the draft annual budgets and, with advice and input from the tax administrator, preparing any draft amendments to the component of the annual budget respecting the First Nation's local revenues;

(d) preparing the monthly financial information required in section 67, the quarterly financial statements required in section 68 and the draft annual financial statements required in sections 69 and 70;

(e) preparing the financial components of reports to the Council and of any multi-year financial plans referred to in paragraph 14(1)(a);

(f) actively monitoring compliance with any agreements and funding arrangements entered into by the First Nation;

(g) identifying, assessing, monitoring and reporting on financial reporting risks and fraud risks;

(h) administering and supervising the preparation and maintenance of financial records and the financial administration reporting systems;

(i) administering and supervising the maintenance of the records of all receipts and expenditures of the First Nation to facilitate the annual audit;

(j) actively monitoring compliance with the Act, this Law, any other applicable First Nation law, applicable standards and any policies, procedures and directions of the Council respecting the financial administration of the First Nation;

(k) preparing or providing any documentation and financial information required by the Council or the Finance Committee to discharge its responsibilities;

(l) evaluating the financial administration systems of the First Nation and recommending improvements;

(m) developing and recommending procedures for the safeguarding of assets and ensuring approved procedures are followed;

(n) developing and recommending procedures to the Council for identifying and mitigating financial reporting and fraud risks and ensuring approved procedures are followed;

(o) performing any other duties of the senior financial officer under this Law; and

(p) carrying out any other activities specified by the executive director that are not contrary to the Act or inconsistent with the senior financial officer's duties under this Law.

(3) With the approval of the executive director, the senior financial officer may assign the performance of any of the duties or functions of the senior financial officer to any officer, employee, contractor or agent of the First Nation, but this assignment does not relieve the senior financial officer of the responsibility to ensure that these duties or functions are carried out properly.

Tax Administrator

19.(1) The Council must appoint a person as tax administrator of the First Nation and may set the terms and conditions of that appointment.

(2) Reporting to the executive director, the tax administrator is responsible for performing the tax administrator's duties or functions under the First Nation's local revenue laws, the Act and this Law.

(3) In addition to any duties or functions under the First Nation's local revenue laws and the Act, the tax administrator is responsible for the following:

(a) managing local revenues and the local revenue account on a day-to-day basis;

(b) recommending to the senior financial officer the draft and amended budgets for the component of the annual budget respecting local revenues;

(c) recommending to the senior financial officer the local revenues components of the multi-year financial plan;

(d) on request, providing advice to the executive director, senior financial officer, Finance Committee and the Council respecting local revenues matters;

(e) monitoring compliance with the Act, the First Nation's local revenue laws and this Law in the administration of local revenues and the local revenue account; and

(f) performing any other duties of the tax administrator under this Law.

(4) With the approval of the executive director, the tax administrator may assign the performance of any of the duties or functions of the tax administrator to any officer, employee, contractor or agent of the First Nation, but this assignment does not relieve the tax administrator of the responsibility to ensure that these duties or functions are carried out properly.

Organizational Structure

20.(1) The Council must establish and maintain a current organization chart for the governance, management and administrative systems of the First Nation.

(2) The organization chart under subsection (1) must include the following information:

(a) all governance, management and administrative systems of the First Nation;

(b) the organization of the systems described in paragraph (a), including the linkages between them;

(c) the specific roles and responsibilities of each level of the organization of the systems described in paragraph (a); and

(d) all governance, management and administrative positions at each level of the organization of the systems described in paragraph (a), including

(i) the membership on the Council, Finance Committee and all other committees of the Council and the First Nation,

(ii) the executive director, the senior financial officer, the tax administrator and other officers of the First Nation, and

(iii) the principal lines of authority and the responsibility between the Council, the committees referred to in subparagraph (i) and the officers referred to in subparagraph (ii).

(3) On request, the executive director must provide a copy of the organization chart under subsection (1) to a Councillor, a member of a committee referred to in subparagraph (2)(d)(i), an officer, employee or contractor or agent of the First Nation and a member of the First Nation.

(4) In the course of discharging their responsibilities under this Law, the executive director must recommend to the Council for approval and implementation human resource policies and procedures that facilitate effective internal financial administration controls.

(5) The Council must take all reasonable steps to ensure that the First Nation hires or retains qualified and competent personnel to carry out the financial administration activities of the First Nation.

DIVISION 4 - Conduct Expectations

Conduct of Councillors

21.(1) When exercising a power, duty or responsibility relating to the financial administration of the First Nation, a Councillor must

(a) comply with this Law, the Act, any other applicable First Nation law and any applicable standards;

(b) act honestly, in good faith and in the best interests of the First Nation;

(c) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances; and

(d) avoid conflicts of interest and comply with the requirements of COIP, including required annual disclosures of private interests.

(2) If it has been determined under this Law or by a court of competent jurisdiction that a Councillor has contravened this section

(a) the Council must, at a Council meeting that is open to the public, give a verbal warning or reprimand to the Councillor;

(b) the Council may withhold the Councillor's honoraria for a period of time;

(c) the Councillor must be removed from the Finance Committee, in accordance with subsection 11(8) if applicable; and

(d) the First Nation may use any legal means available to it to remedy the situation.

Conduct of Officers, Employees, Contractors and Agents

22.(1) This section applies to

(a) an officer, employee, contractor and agent of the First Nation;

(b) a person acting under the delegated authority of the Council or the First Nation; or

(c) a member of a committee of the Council or the First Nation who is not a Councillor.

(2) If a person is exercising a power, duty or responsibility relating to the financial administration of the First Nation, that person must

(a) comply with this Law, the Act, any other applicable First Nation law and any applicable standards;

(b) comply with all policies, procedures and directions of the Council; and

(c) avoid conflicts of interest and comply with any applicable requirements of the COIP, including required disclosure of potential conflicts of interest.

(3) The Council must incorporate the relevant provision of this section into

(a) the terms of employment or appointment of every officer or employee of the First Nation;

(b) the terms of every contract of a contractor of the First Nation;

(c) the terms of appointment of every member of a committee who is not a Councillor; and

(d) the terms of appointment of every agent of the First Nation.

(4) If a person contravenes subsection (2), the following actions may be taken:

(a) an officer or employee may be disciplined, including dismissal;

(b) a contractor's contract may be terminated;

(c) the appointment of a member of a committee may be revoked;

(d) the appointment of an agent may be revoked; and

(e) the First Nation may use any legal means available to it to remedy the situation.

PART IV - Financial Management

DIVISION 1 - Financial Plans and Annual Budgets

Fiscal Year

23. The fiscal year of the First Nation is April 1 to March 31 of the following year.

Multi-year Financial Plan

24. No later than March 31 of each year, the Council must approve a multi-year financial plan that

(a) has a planning period of five (5) years comprised of the current fiscal year and the four (4) succeeding fiscal years;

(b) sets out projected revenues, segregated by significant category;

(c) sets out projected expenditures, segregated by significant category; and

(d) indicates whether in any of the five (5) years of the plan a deficit or surplus is expected from the projection of revenues and expenditures for that year.

Content of Annual Budget

25.(1) The annual budget must encompass all the operations for which the First Nation is responsible and must identify

(a) anticipated revenues, segregated by significant category, including local revenues, with estimates of the amount of revenue from each category;

(b) anticipated expenditures, segregated by significant category, including local revenues, with estimates of the amount of expenditure for each category; and

(c) any anticipated annual and accumulated surplus or annual and accumulated deficit and the application of year-end surplus.

(2) If the First Nation has a land code in force, the revenue category of moneys derived from the First Nation's lands must be shown separately in the annual budget from other revenues and must include a sub-category for revenues from natural resources obtained from the First Nation's lands.

Budget and Planning Process Schedule

26.(1) On or before January 31 of each year, the senior financial officer must prepare and submit to the Finance Committee for review a draft annual budget and a draft multi-year financial plan for the next fiscal year.

(2) On or before February 28 of each year, the Finance Committee must review

(a) the draft annual budget and recommend an annual budget to the Council for approval; and

(b) the draft multi-year financial plan and recommend a multi-year financial plan to the Council.

(3) On or before March 31 of each year, the Council must review and approve the annual budget for the First Nation for the next fiscal year.

(4) In the event that there is a substantial change in the forecasted revenues or expenditures respecting local revenues,

(a) the senior financial officer, in consultation with the tax administrator, must must prepare and submit to the Finance Committee for review a draft amendment of the component of the annual budget respecting the First Nation's local revenues, on or before June 15;

(b) the Finance Committee must review the draft amendment of the component of the annual budget respecting the First Nation's local revenues and recommend an amendment to the annual budget to the Council for approval, on or before June 30; and

(c) the Council must approve the amendment of the component of the annual budget respecting the First Nation's local revenues, on or before July 15.

Additional Requirements for Budget Deficits

27. If a draft annual budget contains a proposed deficit, the Council must ensure that

(a) no portion of the proposed deficit originates in or relates to local revenues;

(b) the multi-year financial plan of the First Nation demonstrates how and when the deficit will be addressed and how it will be serviced; and

(c) the deficit does not have a negative impact on the credit worthiness of the First Nation.

Amendments to Annual Budgets

28.(1) The annual budget of the First Nation must not be changed without the approval of the Council.

(2) Subject to subsection 26(4) and sections 36 and 37, unless there is a substantial change in the forecasted revenues or expenses of the First Nation or in the expenditure priorities of the Council, the Council must not approve a change to the annual budget of the First Nation.

Local Revenues Budget Requirements

29. Despite any other provisions of this Law, any part of a budget relating to local revenues must be prepared, approved and amended in accordance with applicable provisions of the Act and of the FNTC standards.

Policy for First Nation Information or Involvement

30.(1) The Council must post a public notice of each Council meeting when each of the following is presented for Council approval:

(a) the multi-year financial plan;

(b) the annual budget, including any component of the annual budget respecting the First Nation's local revenues;

(c) any amendments to the annual budget;

(d) budget deficits or extraordinary expenditures;

(e) capital projects and borrowing for new capital projects; and

(f) proposed amendments to this Law.

(2) A notice provided under subsection (1) must state whether and how members may be involved in the decision under consideration.

DIVISION 2 - Financial Institution Accounts

Financial Institution Accounts

31.(1) No account may be opened for the receipt and deposit of money of the First Nation unless the account is

(a) in the name of the First Nation;

(b) opened in a financial institution; and

(c) authorized by the executive director.

(2) The First Nation must establish the following accounts in a financial institution:

(a) a general account for money from any sources other than those described in paragraphs (b) to (e);

(b) a local revenue account for money from local revenues;

(c) a trust account if the First Nation has money held in trust;

(d) a land and resources account for money from revenues from the First Nation's lands; and

(e) a tangible capital asset reserve account for money set aside for purposes of section 85.

(3) The First Nation may establish any other accounts not referred to in subsection (2) as may be necessary and appropriate to manage the First Nation's financial assets.

Accounts Management

32.(1) The senior financial officer must exercise due diligence to ensure the safekeeping of all money received by the First Nation.

(2) The senior financial officer

(a) must exercise due diligence to ensure that all moneys received by the First Nation are deposited as soon as practicable into the appropriate accounts described in section 31; and

(b) must not authorize payment of money from an account described in section 31 unless the payment relates to the subject matter for which the account was established and is otherwise authorized or permitted under this Law.

DIVISION 3 - Expenditures

Prohibited Expenditures

33.(1) Money or financial assets in a trust account must not be used for a purpose other than that permitted under the terms of the trust.

(2) Money in a local revenue account must not be used for any purpose other than that permitted under a local revenue law or as permitted under section 13.1 of the Act.

(3) Money in a tangible capital asset reserve account must not be used for any purpose other than that described in Part V.

Prohibited Agreements

34. The First Nation must not enter into an agreement or undertaking that requires the First Nation to expend money that is not authorized by or that contravenes this Law, a local revenue law or the Act.

No Expenditure Without Appropriation

35. Subject to section 36 and 37, money must not be paid out of any account unless the expenditure is authorized under an appropriation.

Extraordinary Expenditures

36. Notwithstanding section 35, a quorum of the Council may authorize an expenditure of up to 5% of the annual budget for a reasonable purpose that was not and could not have been anticipated in the annual budget if the expenditure is not expressly prohibited by or under this law or another law of the First Nation.

Emergency Expenditures

37.(1) Notwithstanding section 35, a quorum of the Council may authorize an expenditure for an emergency purpose that was not anticipated in the annual budget if the expenditure is not expressly prohibited by or under this Law or another First Nation law.

(2) For clarity, this section does not authorize an expenditure of local revenues.

Appropriations

38.(1) An amount that is appropriated in an annual budget must not be expended for any purpose other than that described in the appropriation.

(2) The total amount expended by the First Nation in relation to an appropriation must not exceed the amount specified in the annual budget for the First Nation for that appropriation.

(3) Every person who is responsible for managing an appropriation must establish and maintain a current record of commitments chargeable to that appropriation.

Payments after Fiscal Year-end

39.(1) Money appropriated in an annual budget for a fiscal year must not be expended after the end of the fiscal year except to discharge a liability incurred in that fiscal year.

(2) If the liabilities for an appropriation under subsection (1) exceed the unexpended balance of the appropriation at the end of the fiscal year, the excess must be

(a) charged against a suitable appropriation for the following fiscal year; and

(b) reported in the financial statements for the fiscal year in which the liability was incurred.

Requisitions for Payment

40.(1) No money may be paid out of any account without a requisition for payment as required under this section.

(2) No requisition may be made or given for a payment of money unless it is a lawful charge against an appropriation or an authorized use of money in a trust.

(3) No requisition may be made or given for payment of money that results in expenditures from a trust account in excess of the unexpended balance of the trust account.

(4) No requisition may be made or given for payment of money that reduces the balance available in an appropriation or trust account so that it is not sufficient to meet the commitments chargeable against it.

(5) A requisition must identify the appropriation or trust account out of which payment is to be made and must include a statement certifying that the expenditure is not prohibited under this section and that it is

(a) in accordance with the appropriation identified in the certified statement; or

(b) allowed without the authority of an appropriation under this Law.

(6) If a requisition is for the payment of performance of work or services or the supply of goods, the requisition must include a statement certifying that

(a) the work or services have been performed or the goods supplied, any conditions in an agreement respecting the work, services or goods have been met and the price charged or amount to be paid is in accordance with an agreement or, if not specified by agreement, is reasonable; or

(b) if payment is to be made before completion of the work or services, delivery of the goods or satisfaction of any conditions in an agreement, the payment is in accordance with the agreement.

(7) The executive director or the senior financial officer must authorize payment out of, or sign a requisition for payment from, a trust account.

(8) The tax administrator must authorize payment out of a local revenue account.

DIVISION 4 - General Matters

Advances

41.(1) The executive director or the senior financial officer may approve an advance to prepay expenses that are chargeable against an appropriation in the current fiscal year or an appropriation in the next fiscal year.

(2) The tax administrator may approve an advance to prepay expenses that are chargeable against an appropriation from local revenues in the current fiscal year or an appropriation from that account in the next fiscal year.

Holdbacks

42. If the First Nation withholds an amount payable under an agreement, the payment of the amount withheld must be charged to the appropriation from which the agreement must be paid even if the fiscal year for which it was appropriated has ended.

Deposit Money

43. Money received by the First Nation as a deposit to ensure the doing of any act or thing must be held and disposed of in accordance with

(a) the agreement under which the deposit has been paid; and

(b) in the absence of any provisions respecting that matter, any policy or directions of the Council.

Interest

44.(1) All interest earned on the accounts described in subsection 31(2), other than a trust account, local revenue account, or tangible capital asset reserve account must be deposited in the general account referred to in paragraph 31(2)(a).

(2) All interest earned on

(a) a trust account must be retained in that account;

(b) the local revenue account must be retained in that account; and

(c) the tangible capital asset reserve account must be retained in that account.

(3) Subject to the *Interest Act*, the First Nation may charge interest at a rate set from time to time by the Council on any debts or payments owed to the First Nation that are overdue.

Write Off of Debts

45. All or part of a debt or obligation owed to the First Nation may be written off

(a) if approved by the Council; or

(b) if done under the authority of a policy or direction of the Council.

Year-end Surplus

46.(1) Subject to subsections (2) and (3), an operating surplus at the end of the fiscal year must be paid into the general account described in paragraph 31(2)(a).

(2) An operating surplus in the local revenue account at the end of the fiscal year must be retained in that account.

(3) An operating surplus in the tangible capital asset reserve account at the end of the fiscal year must be retained in that account.

DIVISION 5 - Borrowing

Limitations on Borrowing

47.(1) Except as specifically authorized in this Law or in a local revenue law, the First Nation must not borrow money or grant security.

(2) Subject to this Law, if the First Nation is authorized in this Law to borrow money or grant security, the Council may authorize the senior financial officer to borrow money or grant security in the name of the First Nation

(a) as specifically approved by the Council; or

(b) in accordance with the policies, procedures or directions made by the Council.

Borrowing for Ordinary Operations

48.(1) The First Nation may incur trade accounts or other current liabilities payable within normal terms of trade for expenditures provided for in the annual budget for the fiscal year if the debt will be repaid from money appropriated under an appropriation for the fiscal year or is in respect of an expenditure that may be made without the authority of an appropriation under this Law.

(2) The First Nation may enter into agreements with financial institutions for overdrafts or lines of credit and, for the purpose of securing any overdrafts or lines of credit, may grant security to the financial institution in a form, amount, and on terms and conditions that the Council approves.

(3) The First Nation may enter into a general security agreement or a lease for the use or acquisition of lands, materials or equipment required for the operation, management or administration of the First Nation.

Financial Agreements

49.(1) The First Nation may enter into the following agreements in the name of the First Nation:

(a) for the purpose of efficient management of the First Nation's financial assets, agreements with financial institutions and related services agreements; and

(b) for the purpose of reducing risks or maximizing benefits in relation to the borrowing, lending or investing of the First Nation's financial assets, agreements with financial institutions respecting currency exchange, spot and future currency, interest rate exchange and future interest rates.

(2) Unless otherwise specified by the Council, the senior financial officer may enter into any agreements referred to in subsection (1) on behalf of the First Nation.

Borrowing for Authorized Expenditures

50.(1) If the general account described in paragraph 31(2)(a) is not sufficient to meet the expenditures authorized to be made from it and the senior financial officer recommends that money be borrowed to ensure that the general account is sufficient for these purposes, the First Nation may borrow an amount not exceeding a maximum amount specified by the Council and to be repaid within a specified period of time.

(2) Despite the repayment terms specified in subsection (1), if the money borrowed under subsection (1) is no longer required for the purpose for which it was borrowed, the money must be repaid as soon as possible.

Borrowing Member Requirements

51. As a borrowing member,

(a) if the First Nation has obtained long-term financing secured by property tax revenues from the FNFA, the First Nation must not subsequently obtain long-term financing secured by property tax revenues from any other person;

(b) the First Nation may only obtain long-term financing from the First Nations Finance Authority as permitted under its local revenue law and the Act;

(c) money borrowed under paragraph (a) may only be used for the purposes permitted under the Act; and

(d) money borrowed by the First Nation from the FNFA that is secured by other revenues may only be used for the purposes set out in section 4 of the *Financing Secured by Other Revenues Regulations* made under the Act.

Borrowing for Repayment of Debts

52. Subject to this Law and a local revenue law, the First Nation may not borrow money to repay or refinance a debt of the First Nation, unless doing so results in a cost savings, or more favourable terms for the First Nation.

Use of Borrowed Money

53.(1) Subject to this section and any local revenue law, money borrowed by the First Nation for a specific purpose must not be used for any other purpose.

(2) All or some of the money borrowed for a specific purpose by the First Nation and not required to be used immediately for that purpose may be temporarily invested under subsection 59(1) until required for that purpose.

(3) If some of the money borrowed for a specific purpose is no longer required for that purpose, that money must be applied to repay the debt from the borrowing.

Execution of Security Documents

54.(1) Subject to subsection (2), a security granted by the First Nation must be signed by a Councillor designated by the Council and by the executive director.

(2) A security granted by the First Nation in respect of local revenues must be signed by a Councillor designated by the Council and by the tax administrator.

Operational Controls

55. The Council must establish policies or procedures or give directions respecting the establishment and implementation of an effective system of internal controls that ensures the orderly and efficient conduct of the First Nation's operations.

DIVISION 6 - Risk Management

Limitation on Business Activity

56.(1) Subject to subsections (2) and (3), the First Nation must not

(a) carry on business as a proprietor;

(b) acquire an interest in a partnership as a general partner; or

(c) act as a trustee respecting property used for, or held in the course of, carrying on a business.

(2) The First Nation may carry on a business that

(a) is ancillary or incidental to the provision of programs or services or other functions of First Nation governance; or

(b) derives income from the granting of a lease or licence of or is in respect of

(i) an interest in, or natural resources on or under, the First Nation's lands or lands owned in fee simple by, or in trust for, the First Nation, or

(ii) any other property of the First Nation.

(3) The First Nation may carry on business activities for the primary purpose of profit if the Council determines that the business activities

(a) do not result in a material liability for the First Nation; or

(b) do not otherwise expose the First Nation's financial assets, property or resources to significant risk.

(4) The Council may impose terms and conditions on the conduct of any business activity permitted under this section in order to manage any risks associated with that activity.

Guarantees and Indemnities

57.(1) The First Nation must not give any guarantees.

(2) The First Nation must not give an indemnity unless it is

(a) authorized under section 99;

(b) necessary and incidental to and included in another agreement to which the First Nation is a party; or

(c) in relation to a security granted by the First Nation that is authorized under this Law or another First Nation law.

(3) Subject to a resolution described in subsection 99(1), the Council must make policies and directions respecting indemnities as follows:

(a) specifying circumstances under which an indemnity may be given without Council approval;

(b) designating the persons who may give an indemnity on behalf of the First Nation and specifying the maximum amount of any indemnity which may be given by them;

(c) specifying any terms or conditions under which an indemnity may be given; and

(d) specifying the records to be maintained of all indemnities given by the First Nation.

Authority to Invest

58.(1) Except as specifically authorized in this Law or another First Nation law, the First Nation must not invest the First Nation's financial assets.

(2) If the First Nation is authorized in this Law to invest the First Nation's financial assets, the Council may authorize the executive director to invest the First Nation's financial assets

(a) as specifically approved by the Council; or

(b) in accordance with the policies, procedures or directions made by the Council.

Approved Investments

59.(1) Money in an account described in section 31 that is not immediately required for expenditures may be invested by the First Nation in one or more of the following:

(a) securities issued or guaranteed by Canada, a province or the United States of America;

(b) fixed deposits, notes, certificates and other short-term paper of, or guaranteed by, a financial institution, including swaps in United States of America currency;

(c) securities issued by the FNFA or by a local, municipal or regional government in Canada;

(d) commercial paper issued by a Canadian company that is rated in the highest category by at least two (2) recognized security-rating institutions;

(e) any investments a trustee may make under an enactment of a province relating to trustees; or

(f) any other investments or class of investments prescribed by a regulation under the Act.

(2) Subject to the terms of the trust, money held in trust that is not immediately required for expenditures may be invested by the First Nation as permitted under the terms of the trust or under the laws of the jurisdiction in which the majority of the First Nation's lands are located.

(3) If the First Nation has established an investment account under section 31, the First Nation may invest money in that account in

(a) a company that is incorporated under the laws of Canada or of a province or territory and in which the First Nation is a shareholder;

(b) a trust in which the First Nation is a beneficiary;

(c) securities issued by the FNFA or by a local, municipal or regional government in Canada; or

(d) a limited partnership in which the First Nation is a partner.

(4) Despite any other provision in this section, the First Nation may only invest the following in investments specified in paragraphs 82(3)(a), (b), (c) or (d) of the Act and in investments in securities issued by the FNFA or a municipal finance authority established by a province:

(a) government transfer funds;

(b) local revenues; and

(c) other revenues, if the First Nation has a loan from the FNFA secured by other revenues.

No Loans to Members

60. The First Nation must not make a loan to a member of the First Nation or to an entity in which a member of the First Nation has an interest.

Administration of Investments and Loans

61.(1) If the First Nation is authorized to make an investment or loan under this Law, the senior financial officer may do all things necessary or advisable for the purpose of making, continuing, exchanging or disposing of the investment or loan.

(2) If the First Nation is authorized to make a loan under this Law, the Council must establish policies or procedures or give directions respecting the terms and conditions under which loans may be made, including a requirement that all loans be recorded in a written agreement that provides for proper security for repayment and sets out the terms for repayment of principal and interest.

Risk Assessment and Management

62.(1) Annually, and more often if necessary, the executive director and the senior financial officer must identify and assess any significant risks to the First Nation's financial assets, the First Nation's tangible capital assets, and the operations of the First Nation.

(2) Annually, and more often if necessary, the executive director must report to the Finance Committee on proposed plans to mitigate the risks identified in subsection (1) or, where appropriate, to manage or transfer those risks by agreement with others or by purchasing insurance.

Insurance

63.(1) On recommendation of the Finance Committee, the Council must procure and maintain in force all insurance coverage that is appropriate and commensurate with the risks identified in section 62 and any other risks associated with any assets, property or resources under the care or control of the First Nation.

(2) The Council may purchase and maintain insurance for the benefit of a Councillor or an officer or their personal representatives against any liability arising from that person being or having been a Councillor or an officer.

Fraud Risks

64. The Council must establish procedures for the identification and assessment of the following types of potential fraud:

(a) intentional acts in financial reporting that are designed to deceive the users of the financial reports, and which may result in a material omissions from or misstatements of financial reports;

(b) intentional acts in non-financial reporting that are designed to deceive the users of the non-financial reports;

(c) thefts of the First Nation's assets in circumstances where the thefts may result in a material omissions from or misstatements in financial reports; and

(d) corruption and illegal acts.

DIVISION 7 - Financial Reporting

GAAP

65. All accounting practices of the First Nation must comply with GAAP.

Separate Accounting

66.(1) The senior financial officer must account for local revenues of the First Nation separately from other moneys of the First Nation.

(2) If the First Nation has a loan from the FNFA that is secured by other revenues, the senior financial officer must

(a) account for all other revenues of the First Nation separately from other moneys of the First Nation; and

(b) provide the FNFA or the FMB, on its request, with accounting information respecting the other revenues.

Monthly Financial Information

67. No more than fifteen (15) days following the end of each month, the senior financial officer must

(a) prepare financial information respecting the financial affairs of the First Nation in the form and with the content approved by the Council on the recommendation of the Finance Committee; and

(b) provide the information in paragraph (a) to the Council and the Finance Committee.

Quarterly Financial Statements

68.(1) No more than thirty (30) days following the end of each quarter of the fiscal year, the senior financial officer must

(a) prepare financial statements for the First Nation for that quarter in the form and with the content approved by the Council on the recommendation of the Finance Committee; and

(b) provide the information in paragraph (a) to the Council and the Finance Committee.

(2) Within forty-five (45) days of the end of each quarter, the quarterly financial statements in subsection (1) must be

(a) reviewed by the Finance Committee and recommended to Council for approval; and

(b) reviewed and approved by the Council.

Annual Financial Statements

69.(1) At the end of each fiscal year the senior financial officer must prepare the annual financial statements of the First Nation for that fiscal year in accordance with GAAP and to a standard that is at least comparable to that generally accepted for governments in Canada.

(2) The annual financial statements must be prepared in a form approved by the Council on the recommendation of the Finance Committee.

(3) The annual financial statements must include the following information:

(a) the financial information of the First Nation for the fiscal year; and

(b) the revenue categories for the First Nation's lands referred to in subsection 25(2), if the First Nation has a land code in force.

(4) The senior financial officer must provide draft annual financial statements to the Finance Committee for review within forty-five (45) days following the end of the fiscal year for which they were prepared.

(5) The Finance Committee must present draft annual financial statements to the Council for review within sixty (60) days following the end of the fiscal year for which they were prepared.

Local Revenues Annual Financial Statements

70.(1) The senior financial officer must prepare separate annual financial statements respecting the First Nation's local revenues in accordance with FMB standards respecting financial reporting of local revenues.

(2) The provisions of this Law, including this section, respecting separate annual financial statements for local revenues do not apply if FMB standards respecting financial reporting of local revenues permit the First Nation to report on its local revenues in its audited annual financial statements as a distinct segment of the activities that appear in those statements and the First Nation chooses to report on its local revenues in that manner.

Special Purpose Reports

71. The senior financial officer must prepare the following special purpose reports:

(a) a report setting out all payments made to honour indemnities for that fiscal year;

(b) a report setting out the information required in section 10;

(c) a report setting out all debts or obligations forgiven by the First Nation;

(d) if the First Nation has a land code in force, a report setting out moneys of the First Nation derived from First Nation lands, categorized and shown separately from other revenues and that includes a sub-category respecting revenues from natural resources obtained from First Nation lands; and

(e) any other report required under the Act or an agreement.

Appointment of Auditor

72.(1) The First Nation must appoint an auditor for each fiscal year to hold office until the later of

(a) the end of the Council meeting when the audited annual financial statements for that fiscal year are being considered; or

(b) the date the auditor's successor is appointed.

(2) The terms and conditions of the appointment of the auditor must be set out in an engagement letter approved by the Finance Committee and must include the auditor's obligation

(a) to confirm in writing that the annual financial statements and the audit of them comply with this Law, the Act and FMB standards, where applicable, or

(b) to the extent they are not in compliance, to identify in writing consequential non-compliance matters.

(3) To be eligible for appointment as the auditor of the First Nation, an auditor must

(a) be independent of the First Nation, its related bodies, Councillors and officers and members; and

(b) be a public accounting firm or public accountant

(i) in good standing with the Chartered Professional Accountants of Canada, the Canadian Institute of Chartered Accountants, the Certified General Accountants Association of Canada or the Society of Management Accountants of Canada and their respective counterparts in the province or territory in which the public accounting firm or public accountant is practicing, and

(ii) licensed or otherwise authorized to practice public accounting in British Columbia.

(4) If the auditor ceases to be independent, the auditor must as soon as practicable after becoming aware of the circumstances

(a) advise the First Nation in writing of the circumstances; and

(b) eliminate the circumstances that resulted in loss of independence or resign as the auditor.

Auditor's Authority

73.(1) To conduct an audit of the annual financial statements of the First Nation, the auditor must be given access to

(a) all records of the First Nation for examination or inspection and given copies of these records on request; and

(b) any Councillor, officer, employee, contractor or agent of the First Nation to ask any questions or request any information.

(2) On request of the auditor, every person referred to in paragraph (1)(b) must

(a) make available all records referred to in paragraph (1)(a) that are in that person's care or control; and

(b) provide the auditor with full information and explanation about the affairs of the First Nation as necessary for the performance of the auditor's duties.

(3) The auditor must be given notice of

(a) every meeting of the Finance Committee; and

(b) the Council meeting where the annual audit, including the annual financial statements, will be considered and approved.

(4) Subject to subsection (6), the auditor may attend any meeting for which the auditor must be given notice under this section or to which the auditor has been invited and must be given the opportunity to be heard at those meetings on issues that concern the auditor as auditor of the First Nation.

(5) The auditor may communicate with the Finance Committee, as the auditor considers appropriate, to discuss any subject that the auditor recommends be considered by the Finance Committee.

(6) The auditor may be excluded from all or any part of a meeting of the Finance Committee or the Council by a recorded vote if the subject matter relates to the retaining or dismissal of the auditor.

Audit Requirements

74.(1) The annual financial statements of the First Nation referred to in section 69 and subsection 70(1) must be audited by the auditor

(a) not more than one hundred and twenty (120) days after the fiscal-year end; and

(b) in accordance with generally accepted auditing standards established by the Chartered Professional Accountants of Canada.

(2) When conducting the audit, the auditor must provide

(a) an audit opinion of the annual financial statements; and

(b) review comments on the special purpose reports referred to in section 71.

Review of Audited Annual Financial Statements

75.(1) The audited annual financial statements must be provided to the Finance Committee for its review and consideration not more than one hundred and five (105) days after the fiscal year-end for which the statements were prepared.

(2) The Council must review and approve the audited annual financial statements not more than one hundred and twenty (120) days after the end of the fiscal year for which the statements were prepared.

Access to Annual Financial Statements

76.(1) Before the annual financial statements referred to in section 69 and subsection 70(1) may be published or distributed, they must

(a) be approved by the Council;

(b) be signed by

(i) the Chief of the First Nation,

(ii) the Chair,

(iii) the executive director, and

(iv) the senior financial officer; and

(c) include the auditor's audit report of the annual financial statements.

(2) The audited annual financial statements referred to in section 74 must be available for inspection by members of the First Nation at the band office during normal business hours.

(3) The following documents must be available for inspection by any person referred to in subsection 14(2) of the Act at the band office during normal business hours:

(a) the audited annual financial statements respecting local revenues referred to in subsection 70(1); or

(b) the audited annual financial statements referred to in subsection 69(1) if those statements include a report on local revenues as a distinct segment of the activities that appear in those statements.

Annual Report

77.(1) Not later than one hundred and eighty (180) days after the end of each fiscal year, the Council must prepare an annual report on the operations and financial performance of the First Nation for the previous fiscal year, which report must include:

(a) a description of the services and operations of the First Nation;

(b) a progress report on any established financial objectives and performance measures of the First Nation;

(c) the audited annual financial statements referred to in section 74 for the previous fiscal year; and

(d) any special purpose reports referred to in section 71, including the auditor's review comments, as applicable.

(2) The executive director must provide a paper or electronic copy of the annual report referred to in subsection (1)

(a) to a member of the First Nation as soon as practicable after a request is made by the member;

(b) to the FMB as soon as practicable after the report's publication, if the First Nation has a certificate issued by the FMB under subsection 50(3) of the Act; and

(c) to the FNFA as soon as practicable after the report's publication, if the First Nation is a borrowing member.

(3) The executive director must establish and maintain a register for the annual report that identifies all members of the First Nation who have requested a copy of the annual report and which includes

(a) the date each request was received; and

(b) the date the annual report was provided to the member.

(4) If the executive director does not provide a copy of the annual report to a member within a reasonable time after the member's request, the member may apply to the Council to request a copy.

(5) The executive director must report quarterly to the Finance Committee on the steps taken to ensure compliance with subsections (2) and (3).

DIVISION 8 - Information and Information Technology

Ownership of Records

78.(1) All records that are produced by or on behalf of the First Nation or kept, used or received by any person on behalf of the First Nation are the property of the First Nation.

(2) The Council must establish policies or procedures or give directions to ensure that the records referred to in subsection (1) remain the property of the First Nation.

Operations Manual

79.(1) The executive director must prepare and maintain a current operations manual respecting every element of the First Nation's administrative systems, including any financial administration systems referred to in this Law.

(2) The operations manual under subsection (1) must be made available to Councillors, members of the Finance Committee and all other Council committees and officers and employees of the First Nation, subject to reasonable exceptions.

(3) If any part of the operations manual under subsection (1) is relevant to the services being provided by a contractor or agent of the First Nation, that part of the operations manual must be made available to the contractor or agent.

Record Keeping and Maintenance

80.(1) The executive director must ensure that the First Nation prepares, maintains, stores and keeps secure all of the First Nation's records that are required under this Law or any other applicable law.

(2) The First Nation's records may not be destroyed or disposed of except as permitted by, and in accordance with, the policies, procedures or directions of the Council.

(3) All financial records of the First Nation must be stored for at least seven (7) years after they were created.

(4) The Council must establish policies and procedures or give directions respecting access of any persons to First Nation's records.

Confidentiality of Information

81.(1) No person may be given access to the First Nation's records containing confidential information except as permitted by, and in accordance with, the policies, procedures and directions of the Council.

(2) All persons who have access to the First Nation's records must comply with all policies, procedures or directions of the Council respecting the confidentiality, control, use, copying or release of that record or information contained in those records.

Account Records

82.(1) The tax administrator must prepare, maintain, store and keep secure a complete set of all records respecting the local revenue system of the First Nation, including all records referred to in section 5 of the *Revenue Management Implementation Regulations.*

(2) If the First Nation has a loan from the FNFA that is secured by other revenues, the senior financial officer must prepare, maintain, store and keep secure a complete set of all records respecting other revenues of the First Nation, including all records referred to in section 5 of the *Revenue Management Implementation Regulations* as amended by the *Financing Secured by Other Revenues Regulations.*

Information Technology

83. The Council must establish policies or procedures or give directions respecting information technology used by the First Nation in its operations to ensure the integrity of the First Nation's financial administration system and its database.

PART V - Capital Projects

Council General Duties

84. The Council must take reasonable steps to ensure that

(a) the First Nation's tangible capital assets are maintained in a good and safe condition and to the same standard as a prudent owner of those assets;

(b) the rehabilitation or replacement of the First Nation's tangible capital assets is in accordance with a life-cycle management program described in this Part; and

(c) capital projects for the construction of buildings or other improvements are financed, planned and constructed in accordance with procedures and to standards that generally apply to the financing, planning and construction of public buildings and other improvements of organized communities in the region in which the majority of the First Nation's lands are located.

Tangible Capital Assets Reserve Fund

85. The Council must establish a tangible capital asset reserve fund for the purpose of funding expenditures for capital projects carried out under this Part.

Reports on Capital Projects

86. At least quarterly, the executive director must report on the following subjects:

(a) year to date borrowings, loans and payments in respect of each capital project;

(b) the status of a capital project, including

(i) a comparison of expenditures to date with the project budget,

(ii) a detailed description of any identified legal, financial, technical, scheduling or other problems, and

(iii) the manner in which a problem identified in subparagraph (ii) has been or will be addressed; and

(c) steps taken to ensure compliance with section 89 for every capital project.

Life-Cycle Management Program

87.(1) The executive director must establish and keep current a register of all the First Nation's tangible capital assets that identifies each of these assets and includes the following information:

(a) location and purpose of the asset;

(b) ownership and restrictions over ownership of the asset;

(c) year of acquisition;

(d) last inspection date of the asset;

(e) expected life of the asset at the time of acquisition;

(f) assessment of condition of the asset and its remaining useful life;

(g) estimated residual value of the asset;

(h) insurance coverage for the asset; and

(i) any other information required by the Council.

(2) On or before November 30 of each year, the executive director must arrange for the inspection and review of the state of each of the First Nation's tangible capital assets to establish or update information respecting the following matters:

(a) its present use;

(b) its condition and state of repair;

(c) its suitability for its present use;

(d) its estimated remaining life;

(e) its estimated replacement cost;

(f) estimated dates and costs of its required future rehabilitation;

(g) a comparison of annual operating and maintenance costs, other than rehabilitation costs, for the last five (5) fiscal years;

(h) maintenance records for all periods up to the date of inspection; and

(i) property and liability insurance covering the capital asset and its use or operation.

(3) On or before December 31 of each year, the senior financial officer must prepare the following:

(a) a schedule of annual routine maintenance, other than rehabilitation, for each of the First Nation's tangible capital assets for the next fiscal year;

(b) short- and long-term forecasts of the estimated cost for rehabilitation or replacement of the First Nation's tangible capital assets;

(c) the proposed budget for rehabilitation of the First Nation's tangible capital assets for the next fiscal year, setting out

(i) each proposed rehabilitation project and its schedule,

(ii) the estimated cost, including contingencies, of each proposed rehabilitation project, and

(iii) the estimated amounts and timing of money that is required to carry out each proposed rehabilitation project; and

(d) the proposed budget for replacement of the First Nation's tangible capital assets for the next fiscal year setting out

(i) each proposed replacement project and its schedule,

(ii) the description of each asset to be replaced,

(iii) the estimated cost, including contingencies, of each proposed replacement project, and

(iv) the reasons why each proposed acquisition should be regarded as a replacement for the capital asset to be replaced.

Review by Finance Committee

88.(1) On or before January 31 of each year, the Finance Committee must review the information, schedules and budget prepared under section 87 for the following purposes:

(a) to identify any means to reduce the costs of each rehabilitation or replacement project included in the proposed budgets;

(b) to know the effect that each rehabilitation or replacement project included in the proposed budgets will have on the annual operating costs and routine maintenance costs in future years; and

(c) to determine whether any significant savings might be effected by coordinating the scheduling of projects, deferring any projects or carrying out rehabilitation projects rather than replacement projects.

(2) On or before January 31 of each year, the Finance Committee must review any plans for new construction of the First Nation's tangible capital assets, including the proposed schedule, budget and impact on annual operating costs and routine maintenance costs in future years.

Capital Projects – Contracts and Tenders

89.(1) The Council must establish policies or procedures or give directions respecting the management of capital projects, including the following:

(a) project planning, design, engineering, safety and environmental requirements;

(b) project costing, budgeting, financing and approval;

(c) project and contractor bidding requirements;

(d) tender, contract form and contract acceptance;

(e) course of construction insurance;

(f) project performance guarantees and bonding;

(g) project control, including contract management; and

(h) holdbacks, work approvals, payment and audit procedures.

(2) All First Nation capital projects must be managed in accordance with the policies, procedures or directions referred to in subsection (1).

Capital Project Consultants

90. The executive director may retain the services of a professional engineer or other consultant to assist the executive director, Finance Committee and Council to carry out their obligations under this Part.

PART VI - Miscellaneous

FMB Standards

91.(1) The First Nation must comply with all applicable FMB standards.

(2) If the Council becomes aware that the First Nation is not complying with a FMB standard referred to in subsection (1), the Council must as soon as practicable take the required actions to bring the First Nation into compliance with the FMB standard.

Delegated Authority on Intervention

92.(1) Without limiting section 53 of the Act, if

(a) the First Nation is

(i) making local revenue laws under subsection 5(1) of the Act, or

(ii) using its local revenues to secure a loan from the FNFA, and

(b) the FMB gives notice to the First Nation under section 53 of the Act that third-party management of the First Nation's local revenues is required,

the Council of the First Nation delegates to the FMB

(c) the powers and authorities described in subsection 53(2) of the Act, and

(d) any other of the Council's powers required to give effect to third-party management of the First Nation's local revenues and local revenue account under the Act.

(2) Without limiting section 53 of the Act as adapted by the *Financing Secured by Other Revenues Regulations*, if

(a) the First Nation is using its other revenues to secure a loan from the FNFA, and

(b) the FMB gives notice to the First Nation under section 53 of the Act that third-party management of the First Nation's other revenues is required,

the Council of the First Nation delegates to the FMB

(c) the powers and authorities described in subsection 53(2) of the Act as adapted by the *Financing Secured by Other Revenues Regulations*, and

(d) any other of the Council's powers required to give effect to third-party management of the First Nation's other revenues under the Act.

Land Management Obligations

93.(1) If the First Nation has a land code under the *First Nations Land Management Act,* the First Nation must comply with the *First Nations Land Management Act* and any land code made by the First Nation as required or permitted under that Act.

(2) If the First Nation has a land code under the *First Nations Land Management Act,* the Council must establish and implement a policy that provides a method consistent with the requirements of the First Nation's land code for being accountable to members of the First Nation for the management of the First Nation's lands and for moneys earned from those lands to satisfy paragraph 6(1)(e) of the *First Nations Land Management Act.*

Oil and Gas Obligations

94. If the First Nation has a financial code under the *First Nations Oil and Gas and Moneys Management Act,* the First Nation must comply with that Act and any financial code made by the First Nation as required or permitted under that Act.

Reports of Breaches and Financial Irregularities

95.(1) Subject to subsections (2) and (3), if any person has reason to believe that

(a) an expenditure, liability or other transaction of the First Nation is not authorized by or under this Law or another First Nation law,

(b) there has been a theft, misappropriation or other misuse or irregularity in the funds, accounts, assets, liabilities and financial obligations of the First Nation,

(c) a provision of this Law has been contravened, or

(d) a person has failed to comply with the COIP,

the person may disclose the circumstances to the Chair or the executive director.

(2) If a Councillor becomes aware of any circumstances described under subsection (1), the Councillor must report them to the Chair or to the executive director.

(3) If an officer, employee, contractor or agent of the First Nation becomes aware of any circumstances described under subsection (1), the officer, employee, contractor or agent, as the case may be, must report them to the Chair or the executive director.

Inquiry into Report

96.(1) If a report is made to the executive director under section 95, the executive director must inquire into the circumstances reported and report the findings to the Finance Committee as soon as practicable.

(2) If a report is made to the Chair under section 95, the Chair must inquire into the circumstances reported and report the findings to the Finance Committee as soon as practicable.

(3) The Finance Committee may make a further inquiry into any findings reported to it under this section but, in any event, must make a report to the Council respecting any circumstances reported to the Finance Committee under this section, including the Finance Committee's recommendations, if any.

Protection of Parties

97.(1) All reasonable steps must be taken by the executive director, the members of the Finance Committee and the Councillors to ensure that the identity of the person who makes a report under section 95 is kept confidential to the extent practicable in all the circumstances.

(2) A person who makes a report in good faith under section 95 must not be subjected to any form of reprisal by the First Nation or by a Councillor, officer, employee, contractor or agent of the First Nation as a result of making that report.

(3) The executive director and the Chair must take all necessary steps to ensure that subsection (2) is not contravened and must report any contravention or suspected contravention to the Council.

(4) The Council must establish policies or procedures or give directions

(a) for the recording and safeguarding of reports made under section 95 and any records prepared during the inquiry or investigation into those reports;

(b) for the inquiry or investigation into reports made under section 95; and

(c) concerning the fair treatment of a person against whom a report has been made under section 95.

Liability for Improper Use of Money

98.(1) A Councillor who votes for a resolution authorizing an amount to be expended, invested or used contrary to this Law or the First Nation's local revenue law is personally liable to the First Nation for that amount.

(2) Subsection (1) does not apply if the Councillor relied on information provided by an officer or employee of the First Nation and the officer or employee was guilty of dishonesty, gross negligence or malicious or willful misconduct when providing the information.

(3) An amount owed to the First Nation under subsection (1) may be recovered for the First Nation by the First Nation, a member of the First Nation or a person who holds a security under a borrowing made by the First Nation.

(4) It is a good defence to any action brought against an officer or employee of the First Nation for unauthorized expenditure, investment or use of the First Nation's financial assets if it is proved that the officer or employee gave a written and signed warning to the Council that in their opinion, the expenditure, investment or use would be unlawful.

Indemnification against Proceedings

99.(1) Subject to subsection (2), the Council may by resolution indemnify or provide for the indemnification of a named First Nation official, a category of First Nation official or all First Nation officials in accordance with the terms specified in the resolution.

(2) The Council may not pay a fine that is imposed as a result of a First Nation official's conviction for an offence unless the offence is a strict or absolute liability offence.

Periodic Review of and Amendments to Law

100.(1) At least every two years, the Finance Committee, in consultation with the executive director and the senior financial officer, must conduct a review of this Law

(a) to determine if it facilitates effective and sound financial administration of the First Nation; and

(b) to identify any amendments to this Law that may better serve this objective.

(2) The First Nation may only repeal this Law if, at the same time, it replaces this Law with another financial administration law which has been reviewed by the FMB and issued a compliance approval under section 9 of the Act.

(3) Any amendment of this Law must be reviewed by the FMB and issued a compliance approval under section 9 of the Act.

Provision of Law to FNFA

101. The Council must provide a copy of this Law to the FNFA as soon as practicable after the FMB approves the Law.

Repeal

102. The *Moricetown Indian Band Financial Administration Law, 2010* is repealed.

103. For greater certainty, the *Moricetown First Nation Financial Administration By-Law No. 2001-01*, is repealed.

Coming into Force

104. This Law comes into force on the day after it is approved by the FMB.

THIS LAW IS HEREBY DULY ENACTED by Council on the 1st day of February, 2017, at Smithers, in the Province of British Columbia at a duly called and conducted Council meeting at which the required quorum of five (5) members of Council was present throughout.

Chief Duane Mitchell

Councillor Sandra George

Councillor Sherri Green

Councillor Freda Huson

Councillor Archie Joseph

Councillor Lillian Lewis

Councillor Desmond McKinnon

Councillor Ian Michell

Councillor Tanya Michell

Councillor Duane Mitchell

Councillor Elaine Stevens

Councillor Andrew Tom

Councillor Warner William

SCHEDULE

MORICETOWN INDIAN BAND CONFLICT OF INTEREST POLICY

PART I - Interpretation

Interpretation

1.(1) In this Policy

"dependent child" means, in relation to an individual, a child who

(a) has not reached eighteen (18) years of age; or

(b) has reached eighteen (18) years of age but is primarily dependent on the individual for financial support.

"FAL" means the *Moricetown Indian Band Financial Administration Law, 2017* to which this Policy is attached and forms a part; and

"real property" includes an interest in a reserve held under a certificate of possession under the *Indian Act*; and

"spouse" means, in relation to an individual, a person to whom the individual is married or with whom the individual has lived as a common-law partner for at least one (1) year in a marriage-like relationship.

(2) Except as otherwise expressly provided in this Policy, words and expressions used in this Policy have the same meanings as in the FAL.

(3) Sections 3 and 5 of the FAL apply to this Policy.

(4) If there is a conflict between a provision of this Policy and the FAL, the provision of the FAL applies.

Definition of Conflict of Interest

2.(1) A conflict of interest arises where a Councillor, Finance Committee member, officer, employee, committee member, contractor or agent of the First Nation has a private interest that is

(a) real, potential or perceived;

(b) direct or indirect; and

(c) personal or financial,

and which

(d) competes, or appears to compete, with

(i) the interests of the First Nation, or

(ii) the objective exercise of the individual's powers, duties, functions or responsibilities.

(2) For greater clarity, an individual's private interests means the individual's personal and financial interests and includes the personal or financial interests of the individual's spouse and dependent children.

(3) Despite subsections (1) and (2), an individual's private interests do not give rise to a conflict of interest if those interests

(a) are the same as those of a broad class of members of the First Nation of which the individual is a member; or

(b) are so remote or insignificant that they could not be reasonably regarded as likely to influence the individual in the exercise of a power or performance of a duty or function.

(4) Individuals may declare themselves to be in a conflict of interest even if the circumstances do not fit within the term as defined at subsections (1) to (3).

PART II - Councillors and Committee Members

Application

3.(1) This Part applies to all Councillors of the First Nation.

(2) Sections 4 and 6 to 9 also apply to a member of a Council committee, and in those circumstances, all references in those sections to a

(a) Councillor are considered to be references to a member of a Council committee, and

(b) Council meeting are considered to be references to a Committee meeting.

General Obligations

4.(1) Councillors must avoid circumstances that could result in the Councillor having a conflict of interest or an apparent conflict of interest.

(2) Councillors must avoid placing themselves in circumstances where their ability to exercise a power or perform a duty or function could be influenced by the interests of any person to whom they owe a private obligation or who expects to receive some benefit or preferential treatment from them.

Disclosure of Interests

5.(1) A Councillor must file a written disclosure of the following information with the executive director:

(a) the names of the Councillor's spouse;

(b) the employer of the Councillor and the employer of the Councillor's spouse;

(c) real property owned by the Councillor or the Councillor's spouse; and

(d) business interests and material investments of the Councillor or the Councillor's spouse.

(2) A Councillor must file a written disclosure under subsection 5 on the following occasions:(a) within thirty (30) days of being elected to the Council;

(b) as soon as practical after a material change in the information previously disclosed; and

(c) on April 15 of each year that the Councillor holds office.

(3) The executive director must establish and maintain a register of all information disclosed by a Councillor under this section and section 6.

Gifts and Benefits

6.(1) A Councillor or the spouse or dependent child of a Councillor must not accept a gift or benefit that might reasonably be seen to have been given to influence the Councillor in the exercise of the Councillor's powers or performance of the Councillor's duties or functions.

(2) Despite subsection (1), a gift or benefit may be accepted if the gift or benefit

(a) would be considered within

(i) normal protocol exchanges or social obligations associated with the Councillor's office,

(ii) normal exchanges common to business relationships, or

(iii) normal exchanges common at public cultural events of the First Nation;

(b) is of nominal value;

(c) is given by a close friend or relative as an element of that relationship; or

(d) is of a type that the policies or directions of the Council have determined would be acceptable if offered by the First Nation to another person.

(3) Where a gift with a value greater than five hundred dollars ($500) is given to a Councillor or a person referred to in subsection (1), the Councillor must make a written disclosure of the gift to the executive director under section 5, and the gift must be treated as the property of the First Nation.

(4) Subsection (3) does not apply to a gift received during a public cultural event of the First Nation.

Confidential Information

7.(1) During and after their term, Councillors must keep confidential all information that the Councillors receive while performing their duties or functions unless the information is generally available

(a) to members of the public; or

(b) to members of the First Nation.

(2) Councillors must only use confidential information referred to in subsection (1) for the specific purposes for which it was provided to the Councillors.

(3) Councillors must not make use of any information received in the course of exercising their powers or performing their duties or functions to benefit the Councillors' private interests or those of relatives, friends or associates.

Procedure for Addressing Conflict of Interest

8.(1) As soon as a Councillor becomes aware of circumstances in which the Councillor has a conflict of interest, the Councillor must disclose the circumstances of the conflict of interest at the next Council meeting.

(2) A Councillor must leave any part of a Council meeting where the circumstances in which the Councillor has a conflict of interest are being discussed or voted on.

(3) The minutes of a Council meeting must record the Councillor's disclosure under subsection (1) and note the Councillor's absence from the Council meeting when the circumstances in which the Councillor has a conflict of interest were being discussed or voted on.

(4) A Councillor must not take part in any discussions or vote on any decision respecting the circumstances in which the Councillor has a conflict of interest.

(5) A Councillor must not influence or attempt to influence in any way before, during or after a Council meeting any discussion or vote on any decision respecting the circumstances in which the Councillor has a conflict of interest.

(6) Where, as a result of a conflict of interest, a quorum of a Council committee cannot be reached, the matter must be brought before the Council.

(7) Where, as a result of a conflict of interest, a quorum of the Council cannot be reached, the Council must, at its discretion

(a) have the matter decided by a majority of the remaining Council members;

(b) seek the advice of a neutral third party;

(c) bring the matter to a mediator or arbitrator; or

(d) have the members of the First Nation decide the matter at a meeting of members.

Procedure for Undisclosed Conflict of Interest

9.(1) If a Councillor has reason to believe that another Councillor has a conflict of interest or an apparent conflict of interest in respect of a matter before the Council, the Councillor may request clarification of the circumstances at a Council meeting.

(2) If, as a result of a clarification discussion under subsection (1), a Councillor is alleged to have a conflict of interest or an apparent conflict of interest and the Councillor does not acknowledge the conflict of interest or apparent conflict of interest and take the actions required under section 8, the Council must determine whether the Councillor has a conflict of interest or an apparent conflict of interest before the Council considers the matter referred to in subsection (1).

(3) The minutes of the Council meeting must record any determination made by the Council under subsection (2).

(4) If the Council determines under subsection (2) that a Councillor has a conflict of interest or an apparent conflict of interest, the Councillor must comply with section 8.

PART III - Officers and Employees

Application

10. This Part applies to all officers and employees of the First Nation.

General Obligations

11.(1) In the performance of their duties and functions, an officer or employee must act honestly and in good faith and in the best interests of the First Nation.

(2) An officer or employee must avoid circumstances that could result in the officer or employee having a conflict of interest or an apparent conflict of interest.

(3) An officer or employee must avoid placing themselves in circumstances where their ability to exercise a power or perform a duty or function of their office or position could be influenced by the interests of any person to whom they owe a private obligation or who expects to receive some benefit or preferential treatment from them.

(4) The executive director must ensure that every officer and employee is informed of their obligations under this Part and must take steps to ensure that employees comply with these obligations.

Disclosure of Conflict of Interest

12. An officer or employee who believes they have a conflict of interest must

(a) disclose the circumstances in writing as soon as practical to the executive director or, in the case of the executive director, to the Chair; and

(b) refrain from participating in any discussions or decision-making respecting the circumstances of the conflict of interest until advised by the executive director or the Chair, as the case may be, on actions to be taken to avoid or mitigate the conflict of interest.

Gifts or Benefits

13.(1) An officer or employee or a member of their family must not accept a gift or benefit that might reasonably be seen to have been given to influence the officer or employee in the exercise of their powers or performance of their duties or functions.

(2) Despite subsection (1), a gift or benefit may be accepted if the gift or benefit

(a) would be considered within

(i) normal exchanges common to business relationships, or

(ii) normal exchanges common at public cultural events of the First Nation;

(b) is of nominal value;

(c) is given by a close friend or relative as an element of that relationship; or

(d) is of a type that the policies or directions of the Council have determined would be acceptable if offered by the First Nation to another person.

Outside Employment and Business Interests

14.(1) If an officer or employee is permitted under their terms of employment to have outside employment or business interests, the officer or employee must disclose these employment or business interests in writing to the executive director or, in the case of the executive director, to the Chair.

(2) An officer or employee must ensure that any permitted outside employment or business interests do not unduly interfere with the exercise of their powers or performance of their duties and functions and that these activities are conducted on their own time and with their own resources.

Confidential Information

15.(1) During and after their term of employment or appointment, an officer or employee must keep confidential all information that the officer or employee receives while exercising their powers or performing their duties or functions unless the information is generally available

(a) to members of the public; or

(b) to members of the First Nation.

(2) An officer or employee must only use any confidential information referred to in subsection (1) for the specific purposes for which it was provided to the officer or employee.

(3) An officer or employee must not make use of any information received in the course of exercising their powers or performing their duties or functions to benefit the officer or employee's private interests or those of relatives, friends or associates.

First Nation Property and Services

16.(1) Officers and employees must not use any personal property or services of the First Nation for any purposes unrelated to performance of their duties or functions unless that use is otherwise acceptable under the policies or directions of the Council.

(2) Officers and employees must not acquire any personal property of the First Nation unless it is done in accordance with policies or directions of the Council.

PART IV - Honoraria

Honoraria

17.(1) If a Councillor, officer or employee is required as part of their position or under their job description or employment contract to sit on a committee, society, board or other entity, or to attend or present at a conference, course or workshop, then

(a) the First Nation must pay for the Councillor, officer or employee's salary and travel expenses, related to their involvement in the activity; and

(b) the officer or employee must return to the First Nation any honoraria or travel subsidy that they receive as a result of their involvement in the activity.

(2) If a Councillor, officer or employee chooses to sit on a committee, society, board or other entity, or to attend or present at a conference, course or workshop on their own time, then the Councillor, officer or employee

(a) must pay for all of the travel and other expenses related to their involvement in the activity;

(b) must participate in the activity outside of work hours, or use approved vacation time or other leave; and

(c) is entitled to keep any honoraria or travel subsidy given to the Councillor, officer or employee as a result of their involvement in the activity.

PART V - Contractors and Agents

Application

18.(1) This Part applies to all contractors and agents of the First Nation, other than a person who has an employment contract with the First Nation.

(2) In this Part, a reference to a contractor or agent includes a reference to each employee or agent of the contractor who is engaged to perform duties or functions under the contract with the First Nation.

Contractor or Agent Acting as Officer or Employee

19. If a contractor or agent is retained to exercise the powers or perform the duties or functions of an officer or employee, the contractor or agent must comply with Part III of this Policy as if the contractor or agent were an officer or employee of the First Nation.

General Obligations

20.(1) Contractors and agents must act at all times with integrity and honesty

(a) in their dealings with the First Nation; and

(b) in their dealings with any third party when they are representing or acting on behalf of the First Nation.

(2) A contractor or agent must not attempt to obtain preferential treatment from the First Nation by offering gifts or benefits that a Councillor, committee member, officer or employee is prohibited from accepting under this Policy.

(3) Contractors and agents must ensure that all of their employees and agents who are engaged to perform duties or functions under the contract with the First Nation are informed of their obligations under this Part and must take steps to ensure that these employees or agents comply with these obligations.

Confidential Information

21.(1) A contractor or agent must keep confidential all information that the contractor or agent receives in the course of performing their duties or functions unless the information is generally available to members of the public.

(2) A contractor or agent must only use any confidential information referred to in subsection (1) for the specific purposes for which it was provided to the contractor or agent.

(3) Contractors and agents must not make use of any information received in the course of performing their duties or functions to benefit their interests or those of their relatives, friends or associates.

Business Opportunities

22. A contractor or agent must not take advantage of a business or investment opportunity being considered by the First Nation and which the contractor or agent becomes aware of while performing services for the First Nation unless the First Nation has determined not to pursue the opportunity.

First Nation Property and Services

23. If a contractor or agent has been provided the use of any property or services of the First Nation in order to perform services for the First Nation, the contractor must not use the property or services for any purposes unrelated to performance of those services.

February 1, 2017