

LNIB Land Code




# LNIB Land Code Summary & Land Code






## HIGHLIGHTS FROM THE LOWER NICOLA INDIAN BAND'S LAND CODE

Members voted and approved the LNIB Land Code in August 2016 and the Land Code came into effect on December 1, 2016. To help members understand the Land Code, we have broken each section down into highlights. However, this document should not replace reading the document in its entirety. You can find the LNIB Land Code and many other important documents at [lnib.net/policies-bylaws](http://lnib.net/policies-bylaws).




**Section 1: Preliminary Matters**

The 'house-keeping' section of the Land Code that provides legal definition and asserts LNIB's authority to govern.



**Section 2: LNIB Legislation**

How LNIB will go about making laws to govern our reserve lands and resources.




**Section 3: Community Engagement and Approvals**

How LNIB will ensure that community engagement happens in a way that is fair and accessible to all LNIB members.




**Section 4: Interests and Licenses in Land**

The ways that individual people (members) can have legal "interests" in land.




**Section 5: Protection of Land**

How LNIB ensures that our reserve lands and resources remain ours, and under our control.



**Section 6: Land Administration**

The "nuts and bolts" of how land would be managed day-to-day once Canada is no longer administering our land.



**Section 7: Accountability**

How LNIB ensures leadership manages lands and resources clearly and openly.



**Section 8: Dispute Resolution**

Development of the process to follow regarding land-related disputes.

**Section 9: Other Matters**

The "odds and ends" of the Land Code, where matters (important, but not part of the other categories) are discussed.

To view the full LNIB Land Code and Individual Agreement visit [www.lnib.net/land-code-vote](http://www.lnib.net/land-code-vote). For more information contact our Land Code Champion at [landcodechampion@lnib.net](mailto:landcodechampion@lnib.net).





## PREAMBLE

Acknowledges the Lower Nicola Indian Band's connection to its lands and resources and the rich history of decision-making and self-governance since time immemorial. The preamble reinforces the Band's desire for reserve lands and resources to no longer be managed by Canada (*Indian Act*), but managed by the Band under a Land Code.

Some of the language directly from the Land Code includes:

- **WHEREAS** since time immemorial, the members of the Lower Nicola Indian Band have continuously and without interruption occupied our territory and exercised Aboriginal title to our traditional lands;
- **AND WHEREAS** for countless generations we have exercised governance authority over the land, the waters, the salmon, the animals and all other resources of the land;
- **AND WHEREAS** the Lower Nicola Indian Band aspires to move ahead as an organized, highly-motivated, determined and self-reliant Nation
- **AND WHEREAS** the Lower Nicola Indian Band no longer wants our lands and resources to be managed by Canada under the *Indian Act*, but instead wants to manage our own lands and resources under our own Land Code.

For the full Preamble visit: [www.lnib.net/land-code-vote](http://www.lnib.net/land-code-vote)

## SECTION 1: PRELIMINARY MATTERS

Sets out the preliminary matters including the purpose, principles and definitions to be used in the Land Code.

The LNIB Land Code recognizes that LNIB has occupied and used its lands, waters and resources and has never surrendered or relinquished Aboriginal title. Nothing in the Land Code is intended to or does abrogate or derogate from any Aboriginal rights and title now or in the future.

Here are some highlights from Section 1:

- **Culture and traditions:** The structures, organizations, laws and procedures established by or under this Land Code shall be interpreted in accordance with the culture, traditions and customs of LNIB, unless otherwise provided.
- **Non-abrogation:** This Land Code does not abolish, repeal or otherwise abrogate, or detract, diminish or otherwise derogate from, any Aboriginal, treaty or other rights or freedoms that pertain now or in the future to LNIB or its members, including, without limitation, rights to land, water, air and natural resources.





- LNIB Lands (subject to this Land Code):
  - » Hamilton Creek IR#7
  - » Joeyaska IR#2
  - » Logan's IR #6
  - » Nicola Mameet IR#1
  - » Pipeul IR#3
  - » Speous IR#8
  - » Zoht IR#4
  - » Zoht IR#5
  - » Zoht IR#14
- Excluded Lands:
  - » Hihium Lake IR#6

## SECTION 2: LNIB LEGISLATION

Sets out the **legislative** process — including what law making power the LNIB Council will have and the procedure for how new land laws will be created and implemented.

- **Law-making powers:** Council may make certain laws pertaining to a number of topics (see full LNIB Land Code for a comprehensive list) that are subject to any applicable community approval requirements.
- **Law-making procedure:** A proposal for a law may be introduced at a duly convened meeting of Council by:
  - » Chief or Councilor
  - » Representative of the Lands Management Advisory Committee
  - » Lands Manager
  - » Petition signed by at least 20% of eligible voters
- **Community input to be considered:** Prior to enacting a law, Council shall consider any input received from members through community engagement. Except for at a meeting of members where approval is required to pass a law, there is no minimum number of participants required. See the next page for information about what laws must be passed by members at a community meeting.
- **Enactment of law:** Subject to the community and approvals process, a law is enacted if it is approved by a majority of Council by resolution at a Council meeting that is open to members.





## SECTION 3: COMMUNITY ENGAGEMENT AND APPROVALS

How and what the process is for implementing various elements of the Land Code. Before a land law can be enacted, a defined process is set forth to be followed that includes:

- **Meetings of members:** Before enacting a law, Council will call a community meeting to receive input from members and, where required, obtain community approval.
- **Community approval:** Must be obtained for the following:
  - » Amendment of the Land Code;
  - » A land use plan or amendment to a land use plan;
  - » Any development on a heritage site designated in a land use plan;
  - » Any amendment to LNIB's Individual Agreement that significantly reduces the amount of funding provided by Canada;
  - » A law under section 29 (Heritage Sites)
  - » A law enabling development or loss of protection of a heritage site relating to any cemeteries;
  - » A spousal property law under section 26 (Spousal Property Law); and
  - » Any other law or decision that Council, by resolution, declares to be subject to this section.
- **Minimum requirements for approval:** A law (or matter) is approved by eligible voters at a community meeting or ratification vote if 10% of eligible voters participate in the vote (quorum) and a majority vote in favour of the matter.
- **Ratification for this Land Code:** This Land Code shall be approved if:
  - » A majority of registered voters vote in favour; and
  - » The total number of votes in favour is at least 25% plus 1 of the total number of all eligible voters.

*Note: Refer to Section 3 of the LNIB Land Code to review the full community engagement and approvals process.*

## SECTION 4: INTERESTS AND LICENCES IN LAND

Sets forth the general ways that individual people can have legal interests in land. This section deals specifically with the procedures regarding voluntary land exchange, protection of land and expropriation of land by the LNIB.

Here are some key highlights:

- **Continuation of existing interests:** Any interest in LNIB land that exists when this Land Code comes into effect will continue in force.



- **Lands Management Advisory Committee:** Will advise Council on the granting of interests and licenses.
- **Council may grant allotments:** Allotments may be granted by Council to members in accordance with procedures established by Council and any general zoning law and land use plan.
  - » No community approval is required for an allotment.
  - » Non-members cannot hold an allotment or permanent interest in LNIB land.
- **Spousal Property Law:** Council will enact a spousal property law developed by the Lands Management Advisory Committee (in consultation with community members).
  - » Any spousal law proposed must be submitted for community approval — to be approved at least 25% of the eligible voters participate in the vote and a majority of those voters approve it.

## SECTION 5: PROTECTION OF LAND

Deals specifically with the detailed procedures for the expropriation of land by the LNIB — this includes how expropriation can take place as well as fair market value and compensation calculations.

Highlights from Section 5 include:

- **Expropriation:** The reserve size cannot decrease under the Land Code. If required, a community expropriation may only be made for a community purpose.
- **Expropriation laws:** An interest or license in LNIB land (or in any building or structure) may only be expropriated by LNIB provided a number of conditions have been met, including:
  - » A law has been enacted;
  - » Written notice has been provided;
  - » Council has undertaken community engagement;
  - » Council has attempted to negotiate with the licence-holder; and
  - » Council has issued a report to members explaining why the expropriation is necessary.
- **Voluntary land exchanges and protections:** LNIB may agree to exchange a parcel of LNIB land for a parcel of land from another party. However, an exchange of LNIB land is not valid unless it receives community approval.

**Expropriation:** The act of taking privately owned property by a government to be used for the benefit of the public.

## SECTION 6: LAND ADMINISTRATION

This section sets out the basics of how land will be managed day-to-day once Canada is no longer administering LNIB land. This section covers things like the development of a Lands Management Advisory Committee, how money earned from lands will be allocated, and keeping track of land interests.

- **Lands Management Advisory Committee**

- » Composed of an uneven number of no less than five eligible LNIB members (including the chair).
- » Responsibilities include community engagement and approvals, development of lands administration system, and advising Council on matters respecting LNIB land.

*Note: Are you interested in your eligibility criteria and the full duties of the Lands Management Advisory Committee? Read through the full LNIB Land Code at [www.lnib.net/land-code-vote](http://www.lnib.net/land-code-vote)!*

## SECTION 7: ACCOUNTABILITY

To make sure that leadership manages lands and resources clearly and openly, this section deals with issues of like conflicts of interest, financial records, regular audits, an annual land management report and members' to access information.

Important highlights from Section 7 include:

- **Lands management budget**

- » Prior to the beginning of each fiscal year, Council will consult with the Lands Management Advisory Committee and adopt a lands management budget that has been established by the financial controller at LNIB and the lands manager.
- » Once the lands management budget has been adopted, it will be presented at a community meeting and made available for members to view.

- **Annual report**

- » After receiving an audit report (see full Land Code for annual audit details), Council and the Lands Management Advisory Committee will prepare an annual report reviewing land management activities, the audit, and other lands-related activities.

- **Access to information.** LNIB members may have reasonable access to the following:

- » Register of laws;
- » Auditor's report;
- » Lands management budget; and
- » Annual report



## SECTION 8: DISPUTE RESOLUTION

This section lays out steps to follow if land-related disputes happen and talks about things like a dispute resolution panel, ensuring the panel is confidential and impartial, and developing steps that the panel will follow in a dispute.

Specific highlights from Section 8 include:

- **Dispute resolution law:** Council will enact a law establishing the dispute resolution process — that will oversee the process of initiating and addressing disputes.

## SECTION 9: OTHER MATTERS

The “odds and ends” of the Land Code, where matters (important, but not part of the other categories) are discussed. Issues addressed in this section include:

- Land-related insurance requirements;
- What happens when someone breaks the Land Code;
- How to make changes to the Land Code; and
- How and when the Land Code takes effect

Highlights from Section 9 include:

- **Amendments to the Land Code.** All changes, except minor ones that do not change the substance of the Land Code, must receive community approval and approval of Council by resolution.
- **The Land Code comes it effect on the first day of the month following certification.** To achieve certification the Land Code and Individual Agreement (IA) need to be approved by the eligible voters and after the eligible voters approve the IA it needs to be signed by the Chief and Council and Minister of INAC.

Remember to view the LNIB Land Code and many other important documents online at [www.lnib.net](http://www.lnib.net). If you have any questions or would like to speak with someone directly about Land Code, contact Stephen Jimmie at [stephen.jimmie@lnib.net](mailto:stephen.jimmie@lnib.net) or call the Band Office at **250-378-5157**.

