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## **PREAMBLE**

### **WHEREAS**

- A. Membertou is a part of the Mi'kmaw Nation whose ancestors have used and occupied Mi'kma'ki from time immemorial;
- B. Membertou has an unextinguished right to self-determination, as affirmed by the United Nations Declaration on the Rights of Indigenous Peoples, which includes a right to govern itself and protect its members and lands;
- C. Membertou's authority to govern Membertou Land, Waters, and Resources flows from the Creator to the people of Membertou, and from the people to Chief and Council according to the culture, traditions, customs, and laws of Membertou;
- D. Membertou has an inherent right of self-governance which emanates from its people, culture, language, land and aboriginal and treaty rights, which are recognized and affirmed by section 35 of the *Constitution Act, 1982*;
- E. Membertou has entered into the *Framework Agreement on First Nations Land Management* with Canada and enacted the *Membertou Land Code*;
- F. In addition to its inherent jurisdiction, Membertou has authority under section 7.1 of the *Membertou Land Code* to make laws respecting the use and possession of Membertou Land and the granting, regulating, or prohibiting of interests and licenses in relation to this Membertou Land;
- G. Section 30.4 of the *Membertou Land Code* provides that the "right of any individual to access Membertou Land may be removed or modified by resolution";
- H. Section 30.5 of the *Membertou Land Code* provides that "[a]ny person, who resides on, enters or remains on Membertou Land other than in accordance with a residence or access right under this *Land Code* is guilty of an offence"; and
- I. The Council of Membertou deems it to be in the best interest of Membertou to enact a Membertou Community Protection Law to protect the safety and wellbeing of the Membertou community and Membertou Land;

**NOW THEREFORE**, the Council of Membertou duly enacts the following law:



**Short Title**

1. This Law may be cited, for all purposes, as the Membertou Community Protection Law.

**PART I – DEFINITIONS, INTERPRETATION, AND APPLICATION**

**Definitions**

2. Unless the context indicates the contrary, in this Law;

“Accused Person” means a Person who is the subject of an Order hearing under this Law;

“Community Member” means any Person with a Right of Access to Membertou Land under section 30.2 of the *Membertou Land Code*, but does not include Invitees;

“Community Land” means any Membertou reserve lands in which all Members have a common interest, and which have not been allocated;

“*Controlled Drugs and Substances Act*” means the *Controlled Drugs and Substances Act*, SC 1996, c 19, as amended or replaced from time to time;

“Council” means the Chief and Council of Membertou or any successor elected government of Membertou;

“*Criminal Code*” means the *Criminal Code of Canada*, RSC 1985, c C-46, as amended or replaced from time to time;

“Enforcement Officer” means a Person appointed by Council, from time to time, to administer and enforce the provisions of Membertou Land Laws enacted by Council;

“*Family Homes Law*” means the *Membertou Family Homes Law*, 2016, as amended or replaced from time to time;

“*Framework Agreement*” means the *Framework Agreement on First Nation Land Management* entered into between Canada and the signatory First Nations, on February 12, 1996, as amended;

“Individual Agreement” means the Individual Agreement entered into between Membertou and Canada, in accordance with clause 6.1 of the *Framework Agreement*;

“Invitee” means a Person invited to enter Membertou Land pursuant to subsection 30.2(a) or 30.2(c) of the *Membertou Land Code*;

“Law” means this Community Protection Law, which is a Land Law within the meaning of the *Membertou Land Code*;



“Member” means a person whose name appears or is entitled to appear on the Membertou Band Membership List;

“Membertou” means Membertou First Nation which is a First Nation within the meaning of the *Framework Agreement*;

“Membertou Land” has the same meaning as Membertou Land, Waters, Resources in the *Membertou Land Code*;

“Notice of Trespass” means a notice provided in accordance with section 13 of this Law;

“Occupier” means any of the following:

- (a) a Member who holds an interest in the Premises under a Certificate of Possession;
- (b) a tenant with a leasehold interest in the Premises on Land designated for commercial leasing;
- (c) Council, as representatives of Membertou First Nation membership, in reference to Community Land; or
- (d) a Person duly authorized to act on behalf of the Occupier;

“Order” means a Visitor Restriction Order, Community Safety Order, or an Emergency Suspension Order issued under this Law;

“Peace Officer” has the same meaning as defined in the *Criminal Code*, RSC 1985, c C-46 and for greater certainty includes an officer of the Cape Breton Regional Police Service who is responsible for providing policing services on Membertou Land;

“Person” means any natural person, corporation, partnership, trust, unincorporated organization, association, limited liability company, Indian Band or other governmental authority, or other entity;

“Premises” means:

- (a) Membertou Land; and
- (b) anything on Membertou Land, including:
  - (i) buildings and other permanent structures;
  - (ii) a vehicle, except while in operation;
  - (iii) a trailer or a portable structure designed or used as a residence, for shelter or storage, or to house a business; and
  - (iv) water;

“Province” means the Province of Nova Scotia;

“Provincial Court” means the Provincial Court of Nova Scotia or any other court of competent jurisdiction;



“Prohibited Areas” means the portions of Membertou Land which a Person subject to an Order under this Law is restricted from accessing;

“Public Access” has the same meaning as defined in section 30.3 of the *Membertou Land Code*;

“Right of Access” has the same meaning as defined in section 30.2 of the *Membertou Land Code*;

“Right of Residence” has the same meaning as defined in section 30.1 of the *Membertou Land Code*;

“Resolution” means a resolution of the Council enacted under the *Membertou Land Code*;

“Serious Offence” holds the same meaning as defined in section 467.1(1) of the *Criminal Code*; and

“Visitor” means any Person accessing Membertou Land pursuant to:

- (a) Public Access under section 30.3 of the *Membertou Land Code*; or
- (b) a Right of Access as an Invitee under section 30.2 of the *Membertou Land Code*.

### ***Interpretation***

3. This Law must be interpreted in a fair, large, and liberal manner and in conformity with the *Membertou Land Code*.
4. In this Law, the following rules of interpretation apply:
  - (a) the use of the word “must” denotes an obligation that, unless this Law provides to the contrary, must be carried out as soon as practicable after this Law comes into effect or the event that gives rise to the obligation;
  - (b) unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;
  - (c) headings and subheadings are for convenience only, do not form a part of this Law, and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Law;
  - (d) a reference to a statute includes every amendment to it, every regulation made under it and any law enacted in substitution for it or in replacement of it;
  - (e) unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular; and
  - (f) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine.



***Purpose***

5. The purpose of this Law is to promote the safety and protection of all Persons and Premises on Membertou Land by:
- (a) regulating the access of Persons on Membertou Land; and
  - (b) prohibiting trespass on Membertou Land.

***Application***

6. This Law applies to all Membertou Land identified in Membertou's Individual Agreement, including:
- (a) Sydney 28A;
  - (b) Membertou 28B;
  - (c) Caribou Marsh 29; and
  - (d) Membertou Land, Waters, and Resources set apart by Canada in the future as Membertou Land, Waters, and Resources reserved for the use and benefit of Membertou, within the meaning of subsection 91(24) of the *Constitution Act*, 1867 and section 2(1) of the *Indian Act*.
7. This Law applies to all Persons on Membertou Land including Members of Membertou.

**PART II – TRESPASS**

***Offence of Trespass***

8. A Person commits the Offence of Trespass if they:
- (a) enter Membertou Land, except in accordance with a Right of Access, Right of Residence, or Public Access;
  - (b) enter or occupy any Membertou Land or Premises in contravention of an Order issued under this Law;
  - (c) enter onto occupied Premises without the express permission of the Occupier, and do not leave the Premises immediately after being directed to do so by the Occupier of the Premises, a Person authorized by the Occupier, an Enforcement Officer, or a Peace Officer; or
  - (d) enter or occupy Membertou Land or Premises when entry is prohibited under a Resolution made by Council, is prohibited under this Law, or any law whereby any permission or authorization has been revoked.
9. For greater certainty, any Person who enters or occupies any Membertou Land or Premises as a Visitor and:
- (a) carries out or intends to carry out any activity contrary to any Membertou law, by-law or regulation, the *Criminal Code*, or *Controlled Drugs and Substances Act*; or



- (b) carries out or intends to carry out any activity that poses a threat to the health and safety of the Membertou community, Membertou Land, or Membertou values,

fails to comply with either a condition of an Invitee's Right of Access or a condition of Public Access and commits an Offence of Trespass under subsection 8(a).

- 10.** For Community Land where Membertou is the Occupier; the rights and powers of the Occupier are exercised by Council or by any Person designated by Council to exercise some or all of its rights and powers under this Law.

***Parties to an Offence of Trespass***

- 11.** Any Person who aids, abets, counsels, invites, permits, or otherwise facilitates another Person to commit an Offence of Trespass under this Law commits the Offence of Trespass as if they had committed the act.
- 12.** For greater certainty, a Person may be charged with the Offence of Trespass under section 11 whether or not the acts subsequent to entry exceeded the scope of such aiding, abetting, counselling, inviting, permitting, or facilitating, and whether or not any other Person was convicted under this Law in respect of the same trespass.

***Notice of Trespass***

- 13.** A Notice of Trespass under this Law shall be given to anyone found in Trespass:
  - (a) orally or in writing by an Occupier, Enforcement Officer, or Peace Officer;
  - (b) in writing by an agent or employee of Membertou pursuant to a Council Resolution;
  - (c) by means of public notice on Membertou's website and in the Membertou administration offices; or
  - (d) by means of signs posted so that a sign is clearly visible in daylight under normal weather conditions from the approach to each ordinary point of access to the Premises to which it applies.
- 14.** A Notice of Trespass is not required if the Premises is enclosed in a manner that indicates the Occupier's intention to keep Persons off the Premises, including by a lawful fence or a natural boundary.

***Offence to Remove, Alter, or Deface Signs***

- 15.** Any Person who removes, alters, or defaces signs posted for the purposes of subsection 13(d) of this Law commits an offence and may be subject to prosecution, conviction, and penalty in accordance with this Law.



***Inspections***

**16.** An Enforcement Officer or Peace Officer may inspect and determine whether a Person has committed an Offence under sections 8 or 9 on any Membertou Land, other than occupied Premises.

***Investigation of Persons for Trespass***

**17.** An Enforcement Officer or Peace Officer may demand a Person's name and address if they have reasonable grounds to suspect that the Person is or was on Membertou Land or Premises in contravention of sections 8 or 9.

**18.** If an Enforcement Officer or Peace Officer demands a Person's name and address under section 17, the Person must provide their correct name and address to the Enforcement Officer or Peace Officer.

**19.** A Person who contravenes section 18 is guilty of an offence under this Law.

***Entry onto Premises***

**20.** A Peace Officer may enter any Premises to inspect and determine whether a Person is acting in compliance with this Law without a warrant if the Peace Officer has reasonable grounds to believe that the Person has committed an Offence under sections 8 or 9 in relation to that Premises.

***Arrest and Detention***

**21.** A Peace Officer may arrest or detain, whether with or without a warrant, any Person found on Membertou Land or Premises if the Peace Officer believes on reasonable and probable grounds that the arrest and detention is necessary to:

- (a) prevent the continuation or repetition of an offence under sections 8 or 9; or
- (b) establish the identity of the Person.

**22.** Where a Peace Officer arrests or detains a Person in accordance with section 21, the Peace Officer shall, as soon as practicable, release the Person from custody, unless the Peace Officer has reasonable and probable grounds to believe that it is necessary in the public interest for the Person to be detained, having regard to all the circumstances including the need to:

- (a) establish the identity of the Person;
- (b) secure or preserve evidence of or relating to the offence; and
- (c) prevent the continuation or repetition of the offence or the commission of another offence.



***Use of Reasonable Force***

**23.** Where a Person has been arrested or detained in accordance with section 21, a Peace Officer may use reasonable force to remove that Person from the relevant Membertou Land or Premises if that Person is refusing to leave the relevant Membertou Land or Premises.

***Civil Action for Trespass Preserved***

**24.** Nothing in this Law extinguishes the right of a Person, including Membertou, to bring a civil action for damages arising out of a trespass on any Premises or Membertou Land, and all civil remedies for trespass are preserved.

**PART III - VISITOR RESTRICTION ORDERS**

***Visitor Restriction Orders***

**25.** Council may, by Resolution, issue a Visitor Restriction Order that removes or modifies a Visitor's access rights, pursuant to a Right of Access or Public Access, on some or all of Membertou Land or Premises if:

- (a) Council has reasonable grounds to believe that the Person has contravened any Membertou law, by-law or regulation, the *Criminal Code*, or the *Controlled Substances Act*; and
- (b) Council has reasonable grounds to believe that the Person poses a threat to the health and safety of the Membertou community, Membertou Land, or Membertou values.

**26.** Council may, in their discretion, rescind a Visitor Restriction Order at any time.

***Visitor Restriction Order Meetings***

**27.** Council may convene a meeting to consider issuing a Visitor Restriction Order:

- (a) at Council's own initiative;
- (b) upon receipt of a Notice of Trespass from an Enforcement Officer or Peace Officer; or
- (c) upon receipt of a petition from an alleged victim or multiple alleged victims of the Accused Person.

***Request for Reconsideration***

**28.** Within thirty (30) days of receiving notice of a Visitor Restriction Order issued under this Law, an Accused Person may submit to Council, in writing, a request to reconsider the decision to issue the Order.



29. Upon receiving a written request to reconsider the issuance of a Visitor Restriction Order, Council must initiate hearing proceedings in accordance with Part V of this Law.

## **PART IV – COMMUNITY SAFETY ORDERS**

### ***Community Safety Orders***

30. After conducting a hearing in accordance with this Law, Council may, by Resolution, issue a Community Safety Order that removes or modifies a Community Member's Right of Access on some or all of Membertou Land or Premises if:
- (a) the Community Member has been found guilty of an offence under any Membertou law, by-law or regulation, the *Criminal Code*, or the *Controlled Substances Act* or is subject to an exclusive occupation order under Membertou's *Family Homes Law*; and
  - (b) Council has reasonable grounds to believe that the Community Member poses a serious threat to the health and safety of Persons and Premises on Membertou Land.
31. A Person subject to a Community Safety Order may not acquire a right or interest in any Membertou Land that are within the Prohibited Areas.
32. Council may, at their discretion, rescind a Community Safety Order at any time.

### ***Initiation of Proceedings***

33. Council may initiate proceedings to issue a Community Safety Order:
- (a) at Council's own initiative;
  - (b) upon receipt of a Notice of Trespass from an Enforcement Officer or Peace Officer; or
  - (c) upon receipt of a petition from an alleged victim or multiple alleged victims of the Person.

### ***Emergency Suspension Orders***

34. Council may, by Resolution, issue an Emergency Suspension Order that removes or modifies a Community Member's Right of Access on some or all of Membertou Land or Premises pending a Community Safety Order hearing if:
- (a) the Community Member has been charged with a Serious Offence or is subject to an emergency protection order under Membertou's *Family Homes Law*; and
  - (b) Council has reasonable grounds to believe that the Community Member poses a serious and imminent threat or danger to the health and safety of Persons on Membertou Land.



- 35.** For any Emergency Suspension Order, Council must hold hearing proceedings for a Community Safety Order in accordance with Part V of this Law within ninety (90) days of:
- (a) the Person being found guilty of a Serious Offence; or
  - (b) the issuance of an exclusive occupation order against the Person under Membertou's *Family Homes Law*.
- 36.** An Emergency Suspension Order ceases to have effect upon:
- (a) Council's decision following a Community Safety Order hearing;
  - (b) the acquittal of the Person for the Serious Offence that triggered the issuance of the Order; or
  - (c) the expiry or revocation of the emergency protection order under Membertou's *Family Homes Law* that triggered the issuance of the Order.
- 37.** A Person subject to Emergency Suspension Order may submit a written request for reconsideration if:
- (a) no conviction of the Serious Offence has been entered in respect of the conduct giving rise to the Emergency Suspension Order within 90 days of the Order being made; or
  - (b) the Person has acquired a Right of Residence.
- 38.** Upon receipt of a request under section 37, Council shall review the Order and may confirm, vary, or rescind the Order in writing.

## **PART V – COUNCIL HEARING PROCEDURES**

### ***Notice of Hearing***

- 39.** Prior to issuing a Community Safety Order or reconsidering a Visitor Restriction Order, Council shall, by Resolution, cause a Notice of Hearing to be issued to the Accused Person in writing a minimum of thirty (30) days in advance of a hearing.
- 40.** All hearings under this Law will take place at Council meetings specially convened solely for the purpose of issuing, modifying, reviewing, or rescinding an Order under this Law.

### ***Rights of the Accused Person***

- 41.** At a hearing under this Law, the Accused Person has the right to be represented or assisted by any Person who has not been charged with an Offence of Trespass under this Law or is not subject to an Order under this Law.
- 42.** An Accused Person has the right to:



- (a) a hearing before Council, conducted in person, by electronic means, or in a hybrid format, as determined by Council;
- (b) make submissions at the hearing;
- (c) invite Persons with relevant information about the circumstances of the Accused to make submissions at the hearing;
- (d) have their submissions be considered in the decision; and
- (e) be provided written reasons from Council in a timely manner after the completion of the hearing.

**43.** If the Accused Person is incarcerated or in custody, that Person may be provided sixty (60) days notice in advance of the hearing to enable the Accused Person to:

- (a) appoint a representative;
- (b) make submissions by electronic means; and/or
- (b) submit a written statement.

### ***Hearing Rules***

**44.** A hearing under this Law is not bound by the rules of a court.

**45.** Council may invite any Persons with relevant information or expertise that could inform Council decision-making to make submissions at a hearing under this Law.

**46.** Council shall determine the rules of evidence and process of the proceedings at its discretion and in accordance with this Law.

## **PART VI – ISSUANCE OF ORDERS**

### ***Issuance of Orders***

**47.** Council must include the following information in an Order issued under this Law:

- (a) the Resolution passed by Council issuing the Order, with names and votes of Council members redacted;
- (b) the ground(s) for the Order;
- (c) the name of the Person subject to the Order;
- (d) a description or map of Membertou Land clearly identifying the Prohibited Areas which the Person is restricted from accessing;
- (e) a map setting out the approved means by which the Person may access Membertou Land to which the Person has a Right of Residency, if applicable;
- (f) any other conditions and requirements imposed by the Order, such as:
  - (i) community service or other means for restoring justice;
  - (ii) conditions and requirements for any continued access to Membertou Land or Premises by the Person for specific purposes; and
  - (iii) conditions and requirements for future reinstatement of the Person;
- (g) the date on which the Order becomes effective;



- (h) the date upon which the Order expires, if applicable; and
- (i) the contact information for the Membertou employee designated to respond to requests for temporary approval to access Membertou Land under section 49.

**48.** When determining the severity of the penalty to be prescribed in an Order, Council must balance the action committed by the Person and the level of threat they pose to the Membertou community.

**49.** Any Community Member subject to an Order under this Law may enter the Prohibited Areas designated under subsection 47(d) only if they have received written temporary approval from an employee designated by Council, with the written approval stating the time, location, duration, and conditions of access.

**50.** When Council issues or modifies an Order under this Law, Council must within ten (10) business days use their best efforts to:

- (a) provide a copy of the Order to:
  - (i) the Person subject to the Order;
  - (ii) the Cape Breton Regional Police Services;
  - (iii) any lessee or Member that had invited a Person onto Membertou Land or Premises who is subject to an Order under this Law, if applicable; and
  - (iv) any other Persons that Council deems necessary to notify; and
- (b) publish a copy of the Order by posting it on Membertou's website and in the Membertou administration offices.

### ***Filing of Orders***

**51.** Council may file a certified copy of an Order issued under this Law in Provincial Court within six (6) months of the Order being issued.

**52.** An Order filed under section 51 has the same force and effect, and proceedings may be taken on it, as if it were a judgement of the Provincial Court.

## **PART VII – REINSTATEMENT AND REVIEWS**

### ***Petition for Reinstatement***

**53.** A Person subject to an Order under this Law or an authorized representative may request that Council remove or modify the Order.

**54.** In determining whether to remove or modify an Order made under this Law, Council will consider whether the Person subject to the Order:

- (a) has not been issued a Trespass Notice for one-year immediately preceding the petition for reinstatement;
- (b) submits evidence of a change of circumstances that reduces the likelihood of a repeat offence; and



(c) has participated in or agrees to participate in a restorative justice or other rehabilitation program that is acceptable to Council.

**55.** Council may impose conditions, requirements, and probationary periods for the removal or modification of an Order issued under this Law that it deems necessary or advisable in the circumstances.

**56.** When Council removes or modifies an Order issued under this Law, Council must within ten (10) business days use their best efforts to:

- (a) remove or modify the copy of the Order posted on Membertou’s website and in the Membertou administration offices; and
- (b) notify the Person subject to the Order, the Cape Breton Regional Police Services, and any other Persons that Council deems necessary to notify of the removal or modification of the Order.

***Reviews of Community Safety Orders***

**57.** Council shall review any Community Safety Order issued under this Law once every three (3) years since it was first issued to determine whether the Order should remain in effect or be removed or modified, having regard for the conduct of the Person subject to the Order, any changes in circumstances, and the reasons for the original Order.

**PART VIII – OFFENCES AND PENALTIES**

**58.** Unless otherwise indicated, all offences created under this Law are strict liability offences.

**59.** Pursuant to subsection 19.1(a) of the *Framework Agreement*, offences created under this Law constitute offences punishable on summary conviction.

**60.** Pursuant to subsection 19.3 of the *Framework Agreement*, this Law incorporates by reference the summary conviction procedures under the *Criminal Code* including the following:

- (a) the notice of appearance procedures for an offence punishable on summary conviction; and
- (b) the summons procedures for an offence punishable on summary conviction.

**61.** Every Person who commits an offence under this Law is guilty of an offence and upon conviction is liable to a penalty of not more than five thousand dollars (\$5,000) or imprisonment of not more than six (6) months or both.

**62.** In addition to or as an alternative to the penalties in section 61, Council may impose such remedies at their disposal including education, healing circles, community service, restorative justice, or other remedies that align with the Mi’kmaw Nation’s cultural and traditional ways.



- 63.** Council may develop a penalty schedule based on repeat offences and increase the amount of the penalty based on the frequency and repetition of offences.
- 64.** Each day a violation of this Law continues will be deemed to be a separate offence for which a separate fine or remedy may be imposed.
- 65.** Notwithstanding section 61, Council, an Enforcement Officer, or a Peace Officer may decide to waive a penalty against a Person alleged to have committed the Offence of Trespass, provided that said Person removes themselves from the Premises upon Notice.
- 66.** All penalties imposed under section 61 are payable directly to Membertou.

## **PART IX – APPOINTMENTS**

### ***Appointment of Enforcement Officers***

- 67.** Council may, by Resolution, appoint Enforcement Officers for the administration and enforcement of Membertou Land Laws.

### ***Appointment of Prosecutors***

- 68.** Pursuant to subsection 19.10 of the *Framework Agreement* and subsection 10.2 of the *Membertou Land Code*, Membertou may retain its own prosecutor or enter into an agreement with the Province to arrange for a provincial prosecutor to prosecute offences under this Law.
- 69.** Council may, by Resolution, rescind the appointment of any Prosecutor, and appoint a replacement as needed.

## **PART X – ENFORCEMENT**

### ***Lay Information for Private Prosecution***

- 70.** A Prosecutor appointed under this Law may initiate a private prosecution by laying an information in writing and under oath before a justice of the Provincial Court in accordance with section 504 of the *Criminal Code*.
- 71.** Proceedings under this Law may not be instituted more than twelve (12) months after the time when the subject matter of the proceeding arose.

### ***Enforcement by Provincial Court***

- 72.** Pursuant to section 19.4 of the *Framework Agreement*, this Law will be enforced through the Provincial Courts of Nova Scotia.



## **PART XI – GENERAL PROVISIONS**

### ***Applicability of Other Laws***

**73.** Where any federal act or regulation or provincial act or regulation or any other Membertou law may apply to any matter covered by this Law, compliance with this Law must not relieve the person from also complying with the provisions of the other applicable act, regulation or law.

### ***Severability***

**74.** Should a court determine that a provision of this Law is invalid for any reason, the provision shall be severed from the Law and the validity of the rest of the Law shall not be affected. Membertou's Council shall replace the severed provision with another provision, if necessary, in order to maintain the intent of this Law.

### ***Immunity***

**75.** No action for damages lies or may be instituted against past or present Council, duly appointed Enforcement Officers, Peace Officers, or employees, servants, or agents of Membertou:

- (a) for anything said or done or omitted to be said or done by that Person in the performance or intended performance of the Person's duty or the exercise of the Person's authority; or
- (b) for any alleged neglect or default in the performance or intended performance of the Person's duty or the exercise of the Person's authority.

**76.** Where a Person is wrongfully arrested, whether with or without a warrant, no action for damages shall be brought:

- (a) against the Peace Officer making the arrest if he or she believed in good faith and on reasonable and probable grounds that the person arrested was the Person named in the warrant or was subject to arrest without warrant under the authority of this Law;
- (b) against any person called upon to assist the Peace Officer if such person believed that the Peace Officer had the right to effect the arrest; or
- (c) against any person required to detain the Person in custody if such person believed the arrest was lawfully made.

**77.** Sections 75 and 76 do not provide a defence if Council, duly appointed Enforcement Officers, Peace Officers, employees, servants or agents of Membertou have, in relation to the conduct that is the subject matter of the action, are guilty of dishonesty, gross negligence or malicious or willful misconduct.



***Regulations and Delegation***

- 78.** Council may make regulations that the Council considers necessary for carrying out the purposes and provisions of this Law.
- 79.** Council may delegate, by Resolution or under regulations, any responsibilities currently assigned to Council under this Law.

***Amendments***

- 80.** Council may, may, by Resolution, make minor amendments that do not change the substance of this Law, including but not limited to:
- (a) changes necessary to clarify the drafting of provisions;
  - (b) correcting grammatical or typographical errors; and
  - (c) changes required to address inconsistencies with the *Framework Agreement*.
- 81.** For greater certainty, all other amendments to this Law must be in accordance with the *Membertou Land Code*.

***Coming Into Force***

- 82.** This Law comes into force immediately after this Law is approved, certified, and notice is given in accordance with the *Membertou Land Code*.