

# SUMMARY OF THE FORT WILLIAM FIRST NATION LAND MANAGEMENT CODE

## INTRODUCTION

The Land Code was drafted under the *Framework Agreement on First Nation Land Management*. The purpose of the Land Code is to set out the principles, guidelines, and processes by which Fort William First Nation will exercise control and management over reserve lands and resources consistent with the *Framework Agreement*.

## RATIFICATION

The Land Code has been developed in consultation with the Community. The Land Code does not come into force unless the Members approve both the Land Code and the Individual Agreement with Canada in a ratification vote. If the Land Code is approved, Fort William First Nation will manage its own reserve lands, and Fort William lands and resources will no longer be managed by the Minister under the *Indian Act*.

## CONTENTS OF THE LAND CODE

**Preamble** Whereas Fort William First Nation assert that they have the right to govern themselves in relation to matters that are integral to their culture, identity, traditions, language, and with respect to their special relationship to the land and resources, now therefore the Land Code will be the fundamental Land Law of Fort William First Nation.

**Definitions** The definitions are set out at sections 1 to 3.

### **Purpose and General Provisions**

**Jurisdiction and Authority** The Land Code establishes Fort William's jurisdiction over all rights and resources in the Land, Natural Resources, and land revenues of Fort William and all rights and resources in Land Interests and Licenses.

**Fort William First Nation Lands** that is subject to the Land Code is the Indian Reserve known as Fort William Indian Reserve No. \_\_\_\_\_. Other lands may be included in the Land Code in the future.

### **Administration and Operation**

**Law-Making: Powers, Procedures, and Publication** Council may, subject to the terms of the Land Code, make laws respecting the reserve lands subject to the Land Code. The law-making power is as comprehensive as possible in respect of land matters and replaces the powers set out in the Indian Act. Land Laws may be proposed by a Member of Chief and Council, a representative of any group or authority composed of Members, staff authorised in writing by Chief and Council, or any adult Member of Fort William First Nation. Members must be given notice before laws are passed and may be involved in the development or approval of certain types of laws. Approved laws must be posted in the administration office and available electronically.

**Interests of Members in Land** All Interests in or licenses to use Fort William land by Members in the future will be made by Council under the Land Code.

**Transfer of Interests** A Member with a lot can freely transfer it to another Member by a valid deed or will. All other transfers of Interests in land must be approved by Council.

**Natural Resources** The Natural Resources of Fort William First Nation lands are considered a part of the land. A Member has the right to the Natural Resources on his or her land and the revenues from those resources.

**Law-Making Powers** The Council may, subject to the terms of the Land Code, make laws respecting all aspects of its lands. The law-making power is as comprehensive as possible in respect of land matters. Land laws would be made and published in the same ways as by-laws, except that any adult Member of Fort William First Nation can introduce a land law to the Council.

**Member Approvals** Certain land laws and other important land matters must be approved by the Members before they can take effect. There are two methods of Member approval: Member approval at a meeting of Members and ratification vote. Every Member of Fort William First Nation who is 18 years of age or older, whether resident on or off reserve, can participate in a Member approval at a meeting of Members and a ratification vote to discuss and decide the following matters:

- any master Land use plan;
- any new grant or disposition of an Interest or Licence in any Fort William First Nation Land exceeding a term of thirty five (35) years;
- any renewal of a grant or disposition of an Interest or Licence in any Fort William First Nation Land that extends the original term beyond thirty five (35) years;
- any grant or disposition of any non-renewable Natural Resources on Fort William First Nation Land, or any part thereon or thereunder, exceeding a term of five (5) years;
- any deletion of a heritage site;
- any voluntary exchange of Fort William First Nation Land; and
- any other matter, Land Law or class of law that Council, by resolution, declares to be subject to this section.

**Expropriation** There shall be no expropriation of any Interest or license in Fort William First Nation Land by Fort William First Nation.

**Voluntary Exchange of Land** Fort William First Nation may exchange a parcel of reserve land for another parcel of land, although this is not expected to happen in the near future. The Land Code sets out the procedure for how this would happen. There are four important requirements for a land exchange to occur: 1) the new land must be at least as big as the land being exchanged, 2) the new land must be at least of comparable value, 3) the new land must be eligible to become reserve land, and 4) the land exchange must be approved by the Members.

**Conflict of Interest** The Conflict of Interest Policy of Fort William First Nation shall apply for conflicts of Interest that may arise in land management. These rules for not apply to any Interest that is held by a Member in common with every other Member. Any claims that there has been a breach of the conflict of Interest rules may be referred to the Dispute Resolution Panel.

**Accountability of Council** Council is accountable to Members for the management of moneys and land under the Land Code. An annual report will be prepared and published for the Members. The audited financial report will be presented to the Members at an annual community meeting of Members.

**Lands Department and Lands Management Board** The Council may delegate administrative authority to a Lands Manager and Lands Management department staff who will assist with the day-to-day administrative operations Fort William First Nation Lands and resources. The Lands Management Board shall be composed of # Members, one Member will be an Eligible Voter appointed by Council, one Member of Council is to be appointed by Council and the other # Members will be elected by the Members. The Lands Management Board will advise Council on land matters such as laws and policies.

**Registration of Interest** To be protected, Interests in and Licenses to use land must be registered. The Council will establish and maintain the Fort William Land Register where all Interests or Licenses in reserve lands must be registered. All Interests or Licenses must also be registered with the First Nations Land Register, maintained by the Department of Aboriginal Affairs.

**Existing Interests** Any Interest or License in Fort William First Nation Land that existed when the Fort William First Nation Land Code takes effect will, subject to the Land Code, continue in force in accordance with its terms and conditions.

**New Interests and Licenses** All new allocation of land, Interests and Licenses, shall be granted in accordance with the Land Code once it takes effect.

**Transfers of Interests and Licenses** Members may transfer their Interests to other Members without community or Council approval. Other transfers, except those that occur by operation of law, require the consent of Council.

**Mortgages and Seizures** Leases may be mortgaged for financing purposes, but only with the written consent of the Council, or community consent where the term exceeds # years. A mortgage on a leasehold Interest can only be for as long as the lease term. If the lessee ever defaulted on a mortgage, the Council can redeem the mortgage to prevent the bank from using the lease. A Certificate of Possession may be subject to a mortgage, but only to the Fort William First Nation with the written consent of the Council.

### **Residency and Access Rights**

Members, who have been allocated a residential lot or a registered Interest, and their spouse, children and invitees have the right to live on the reserve and have a right of access to Fort William First Nation Land. Lessees and permittees, and those persons authorized by a Land Law also have a right to live on the reserve and a right to access to Fort William First Nation Land. Any individual may have access to Fort William First Nation Land for any social or business purposes. However, individuals who trespass or interfere with occupied Lands, who do not comply with all applicable laws, is barred from Fort William First Nation Land, who resides on, or enters or remains on Fort William First Nation Land other than accordance with a residency or access right is committing an offence subject to a fine and/or imprisonment.

**Wills and Estates** The provisions of the *Indian Act* dealing with wills and estates shall continue to apply with respect to Interests in Fort William First Nation Land. A person who receives an Interest in Fort William First Nation Land by testamentary disposition or succession in accordance with a written decision of the Minister, or his or her designate, pursuant to the *Indian Act*, is entitled to have that Interest registered in the Fort William Land Register.

### **Spousal Property Law**

Within 12 months of the Land Code coming into force, Fort William First Nation must pass a Spousal Property Law that must provide for the best Interests of children, must not discriminate on the basis of sex, and must not allow non-Members to hold Certificates of Possession, or mortgages on those

Interests. In the event that the federal government passes spousal property legislation, the Fort William First Nation Spousal Property Law would override the federal law.

**Dispute Resolution** Council will establish a body to resolve any dispute relating to land. The dispute resolution body can review land management decisions if a Member, or other person with an Interest in reserve land, disputes a decision that affects their land.

**Other Matters** Council must arrange for adequate insurance coverage. The summary conviction provisions of the Criminal Code apply to offences under the Land Code or law enacted under the Land Code, unless some other procedure is provided for by a law. Offences may be enforced by an appointed Justice of the Peace, or court of competent jurisdiction.

**Funding** The Land Code does not deal with funding. Canada will provide funding for Fort William First Nation to manage its lands under the Individual Agreement that will be voted on at the same time as the Land Code.

**Commencement** This Land Code shall not take effect unless the community approves this Land Code and the Individual Agreement with Canada. This Land Code comes into effect on the first day of the month following the certification of this Land Code by the Verifier.