

FAFNLM

TAKING CONTROL OF LAND MANAGEMENT

The Land Code

- A Land Code, drafted by the community, will be the basic land law of the First Nation and will replace the land management provisions of the *Indian Act*.
- The Minister of Indian Affairs and Northern Development will no longer be involved in the management of First Nation's reserve lands.
- The Land Code does not have to be approved by the Minister.

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The Land Code

The Land Code is drafted by each First Nation and provides for the following matters:

- Identifies the reserve lands to be managed by the First Nation (called “First Nation land”)
- Sets out the general rules and procedures for the use and occupation of these lands by First Nation members and others,

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The Land Code

- Provides financial accountability for revenues from the lands (except oil and gas revenues, which continue under federal law),
- Provides the procedures for making and publishing First Nation laws,
- Provides conflict of interest rules,

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- Provides a community process to develop rules and procedures applicable to land on the breakdown of marriage,
- Identifies a dispute resolution process,
- Sets out procedures by which the First Nation can grant interests in land or acquire lands for community purposes,

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The Land Code

- Allows the delegation of land management responsibilities; and
- Sets out the procedure for amending the Land Code

First Nation Land Code

Executive Summary

First Nation Land Code

- A Land Code is 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 a First Nation will exercise control and management over reserve lands and resources consistent with the *Framework Agreement*.

First Nation Land Code

- The Land Code does not come into force unless both it and the Individual Transfer Agreement with Canada are ratified by the Members of the First Nation. If the Land Code is approved, the First Nation will manage its own reserve lands. They will no longer be managed by the Minister under the *Indian Act*.

First Nation Land Code Contents



First Nation Land Code

Authority

- The Land Code states that the power of the First Nation to govern and administer reserve lands flows from the Creator to the people of the First Nation, and from the people to Chief & Council

First Nation Land Code

First Nation Lands

- All of the reserves that are First Nation Lands will be managed under the Land Code

First Nation Land Code

Law Making Powers

- A First Nation can make laws respecting the development, conservation, protection, management, use and possession of First Nation Land.



First Nation Land Code

Law Making Procedure

- Any Member may introduce a law to Council for their consideration.
- Members are entitled to provide input before a law is considered for approval by the Council

First Nation Land Code

Community Approvals

- Community approvals are needed for:
 - a land use plan
 - an interest in land granted for more than *XX* years and any renewal(s)
 - an interest in natural resources granted for more than *XX* years
 - a mortgage of a leasehold interest
 - a law on spousal separation
 - a land law or resolution that Council cannot enact due to a conflict of interest

First Nation Land Code

Protection of Land

- Taking of a Member's interest in land for a community purpose can only be done by the procedures described in the Framework Agreement
- Heritage sites identified cannot be developed without the approval of the Membership

First Nation Land Code

Accountability

- There are conflict of interest rules for Council, members of boards or committees and employees who deal with any matter that relates to land.
- Financial records must be kept and an audit done every year.
- An annual report must be done each year for the Members.
- An annual community meeting must be held to present the audit, budget and activities of the lands department.

First Nation Land Code

Land Administration

- A Lands Advisory Committee will be established to advise Council on land matters.
- Council approves all interests and licences in First Nation Land.
- A Duplicate Land Register may be established and maintained at the administrative office.
- All interests and licences granted will not be enforceable unless they are registered in the First Nations Land Registry.

First Nation Land Code

Interests and Licences

- All dispositions must be in writing and approved by Council.
- Any dispositions in the First Nations Lands that are made by anyone other than Council are void.
- Member interests in existence that were granted under the *Indian Act* or by custom continue.

First Nation Land Code

Allocations of Land

- Council may allocate lots of available land to Members in accordance with their Code.
- A person who is not a Member is not entitled to hold a permanent interest in First Nation Land.

First Nation Land Code

Transfer of Interests

- All allocations of land made by Council may not be transferred without their approval.

First Nation Land Code

Limits on Mortgages and Seizures

- For greater certainty, the Code cites Section 29, 87, 89(1) and (2) of the *Indian Act* regarding the protection of lands and real property from being subject to seizure.
- The term of any mortgage cannot exceed XX years unless it receives community approval.
- If a lessee defaulted on their mortgage, the Council may redeem the mortgage and become the lessee or choose someone else.

First Nation Land Code

Residency and Access Rights

- All Members have a right to access and reside on First Nation Land.
- Holders of a lease that makes provision for residency have a right to reside on First Nation Land.
- A holder of an interest in First Nation Land has a right to access.
- The Council may deny or restrict the right of someone to access or reside on First Nation Land, however before a Member can be restricted or denied, community approval would be required.

First Nation Land Code

Spousal Property Law

- The spousal property law must be enacted within 12 months from the date the Land Code takes affect.
- The law will provide rules and procedures applicable in the event there is a breakdown on marriage to use, occupy and possess community land and the division of interests in that land.
- Consultation with the Members must be done to develop the law.

First Nation Land Code

Spousal Property Law

- The law must respect the following:
 - Each spouse should have an equal right to possession of their matrimonial home;
 - Each spouse should be entitled to an undivided half interest in the matrimonial home;
 - The rules and procedures shall not discriminate on the basis of sex; and
 - Only Members are entitled to hold a permanent interest in First Nation Land.

First Nation Land Code

Dispute Resolution

- Disputes regarding land matters may be appealed to a dispute resolution body if they cannot be resolved by Council or the Lands Advisory Committee.
- The Dispute Resolution Body shall be established by the First Nation.

First Nation Land Code

Dispute Resolution

- The Dispute Resolution Body has the power to:
 - Confirm or reverse the decision;
 - Substitute its own decision;
 - Direct that an action be taken or ceased; or
 - Refer the dispute back for a new decision.
- A decision of the Dispute Resolution Body is final and binding

First Nation Land Code

Liability Insurance

- Council may maintain liability insurance to indemnify their officers and employees from personal liability.

Amendments to the Land Code

- Any amendments to the Land Code must receive Community Approval by a Ratification Vote.

First Nation Land Code

Commencement

- The Land Code cannot come into force until the community approves it and the Transfer Agreement with Canada and the Land Code has been certified by the Verifier.
- The Land Code comes into force on the first day of the month following certification by the Verifier or at such later date specified in the Land Code.

First Nation Land Code

Taking back the control and management of our land and resources, and for the preservation of our land base for future generations.

