

# Summary of Our Temagami First Nation *Land Code*



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## Development and Purpose of Our *Land Code*

A committee of members from **Temagami First Nation** developed our **Land Code** with the input of Temagami First Nation members. If the members approve our **Land Code** and **Individual Agreement**, our community will take back the right to manage our **reserve** lands and resources based on rules made by Temagami First Nation, and no longer be managed by the Minister of Indian Affairs and Northern Development. Approving our **Land Code** and **Individual Agreement** will transfer decision making power over **reserve** land back to Temagami First Nation. The **Land Code** will provide the foundation for the community to formulate laws regarding land management.

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**Benefits of Our *Land Code*** include, but are not limited to:

- Exercising jurisdiction over **reserve** land and resources;
- Legal land tenure for home owners;
- Control over Temagami First Nation land management and development (equivalent power to being land owners);
- Ability to protect the environment and deal with marital property in a way that does not discriminate, and resolve disputes here in the community as an alternative to court;
- Protection against provincial and federal expropriation (the government can no longer take or use our land without our consent. Expropriation of land by the Federal Crown is restricted to a national public purpose (Emergencies Act));
- Making timely business and land decisions without Ministerial approvals from INAC (example, approve a lease without any say from Minister);
- Making and enforcing our own laws that respect our way of life: culture, traditions and customs for the development, conservation, protection, management, use and possession of Temagami First Nation Land;
- Increased accountability to the members of Temagami First Nation;
- *Land Code* can help Temagami First Nation prosper like neighboring First Nations who have a *Land Code*. Brighter future for our youth.

## Communities with **Land Codes**

Since January 1, 2000, 75 First Nation communities across Canada have approved their **Land Code** and are now managing their own lands and resources, and 3 of these have moved on to broader self-government arrangements. There are an additional 58 First Nation communities that are developing their own **Land Code**. Around 60 other First Nations are awaiting to become signatories to the *Framework Agreement on First Nation*

*Land Management.* As one can see this is a rapidly growing trend among First Nations in Canada.

### **Ratifying Our *Land Code***

The *Land Code* will only come into effect if our members approve both our *Land Code* and Individual Agreement on June 24, 2017. Options for voting include alternate (electronic) voting, mail-in voting and in-person voting on Voting Days.

### **Land Protected by Our *Land Code***

The *Land Code* will only apply to **reserve** lands that is within the boundary of ***Bear Island Indian Reserve No. 1***. Later, any other future **reserve** lands that Temagami First Nation may acquire can also be protected under our *Land Code* if we choose.

## **The Contents of Our *Land Code***

### **Part 1: Preliminary Matters**

This part introduces our *Land Code* and explains how it should be read and understood by you. There are definitions for words that will be used in our *Land Code*, an explanation of where the authority to govern comes from, what the purpose of our *Land Code* is, and what **reserve** lands our *Land Code* applies to.

### **Part 2: First Nation Legislation**

This part outlines the law making powers we will have and how new Land Laws will be made under our *Land Code*. The *Land Code* replaces 34 land-related sections of the *Indian Act*, with our own way of doing things. Council may, subject to the terms of our *Land Code*, make laws respecting the development, conservation, protection, management, use and possession of **reserve** lands. Land Laws may be proposed by the Chief and Council, a representative of the Lands Committee or other authorized body of members, or the Lands Manager. 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 public places, at the band administration office, and be available online.

### **Part 3: Community Input and Approvals**

This part explains how Land Laws and land matters are brought forward to Meetings of Temagami First Nation Members for information and consultation purposes and/or for approval.

- **Notice of Meeting** – must be posted and published so that reasonable steps have been undertaken to locate and inform all Temagami First Nation members, on and off reserve. Notice specifies the date, time and place, contains a brief description of the matters to be discussed or decided, and other information considered appropriate for the matter; More than one meeting may be scheduled to ensure Members are well informed.
- **Community Approvals** - are needed for Land Laws and important land matters. Member approval must be obtained for:
  - any master land use plan;
  - any Land Law, or any amendment to an existing Land Law except where the amendment does not change the substance of the Land Law;
  - any deletion or development of a heritage site or Significant Site;

- any grant or disposition of any non-renewable natural resources on any Temagami First nation Land;
  - issuing any new grant or disposition of an Interest or Licence in Temagami First Nation Land;
  - issuing any renewal of a grant or disposition of an Interest of Licence in Temagami First nation Land that extends the original term beyond 25 years;
  - any voluntary exchange of land;
  - an amendment to this Land Code; and
  - any matter, Land Law or class of law that Council, by Resolution, declares to be subject to this clause.
- **Procedure for Member Approval** - Decisions at a Meeting of Members are to be made by a Majority Vote of the Eligible Voters present at the meeting on motions put forward with a mover and a seconder. However, 51% of Eligible Voters must be in favour or against the motion, before it can be passed or defeated. Should 51% of Eligible Voters not be in favour or against another meeting of the members will be called not before fourteen (14) clear days after the first vote and no more than thirty (30) clear days after the first vote. The same motion(s) will be voted on and the result of this vote will be final.

#### Part 4: Protection of Land

This part outlines how the *Land Code* can protect Temagami First Nation **reserve** land.

- **Acquisition** of land can only happen if an agreement can't be reached, and only for necessary community purposes. Community purposes must be for the health and benefit of the membership, and may include, but not limited to, a fire hall, sewage or water treatment facility, community center, public works, utilities, roads, schools, daycare facility, hospitals, health-care facility and/or a retirement home. Acquisition can only happen with member approval at a meeting of members.
- **Voluntary Land Exchanges** can only happen when Temagami First Nation wants to trade a parcel of its **reserve** land for another parcel of land to become **reserve**. Our land base can never diminish, meaning that we can never have less than 707 acres but we can always add to it. Although this is not likely to happen in the near future, the *Land Code* sets out the procedure for how this would happen. There are four important requirements in order 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 become **reserve** land, and 4) the land exchange must receive community approval.
- **Protection of Heritage Sites** gives Temagami First Nation the legal power to protect its heritage sites, cultural areas, and environmentally sensitive areas. This ensures no development can happen on these areas without community approval.

#### Part 5: Accountability

This part outlines how the *Land Code* will be administered including the rules for conflict of interest, financial management, and reporting to members.

- **Conflict of Interest** rules apply to Temagami First Nation land management. These rules do 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 Temagami First Nation Dispute Resolution Panel.

- **Financial Management** policies can be created or updated to include land-specific procedures on maintaining financial records, the audit and financial reporting.
- **Annual Report** - Council will be 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 statement will be presented to the members at an annual community meeting of members.

### **Part 6: Lands and Natural Resources Administration**

This part outlines the duties, roles and responsibilities of the Lands Committee. The first Lands Committee and Council will develop policies that include composition, selection method, eligibility requirements and length of term, etc. for future members on the Lands Committee. In conjunction with the membership, the Lands Committee is responsible for developing Land Laws, rules and procedures for environmental protection, significant site protection, dispute resolution, Land use Planning and enacting Matrimonial and Real Property Law.

### **Part 7: Interests and Licences in Land**

This part is about the operation of lands administration at Temagami First Nation and focuses on:

- **Registration of Interests and Licences** is mandatory. In other words all interests and licences must be registered in the Temagami First Nation Lands Registry to be valid.
- **Existing Interests** continue (for example a certificate of possession or lease already issued under the *Indian Act* will continue in effect under the *Land Code* in accordance with its terms and conditions, unless that person voluntarily agrees to have the Interest of Licence developed pursuant to the coming into force of the *Land Code*). **New Interests** could be made to grant members land (will be useful when the land claims are settled and more lands are added to **reserve**). Non-members can never hold a permanent interest in Temagami First Nation land but can hold interest in a lease.
- **New Interests and Licences** such as member allocations, leases, permits, easements and right-of-ways can be granted by Council.
- **Allocation of Land to Members** is guided by Land Laws, policies and procedures of this *Land Code*.
- **Transfer and Assignment of Interests** can occur from one member to another without approval of Council.
- **Temagami First Nation Lands Register** is a filing system that is maintained by Temagami First Nation. All interests or licenses in our **reserve** lands will be registered here.

- **Residency and Access Rights** - Land Laws shall be established as soon as practical after *Land Code* comes into effect.
- **Transfers upon Death** - Temagami First Nation can issue interests to transfer upon the passing of a member, however the jurisdiction of wills and estates will remain under the *Indian Act*.
- **Matrimonial Real Property on Reserve Law** can be created under the *Land Code*, and will permanently exempt Temagami First Nation from the federally imposed law (*Family Homes on Reserves and Matrimonial Interests or Rights Act, 2013*). This outlines fair and equality based principles that must be included in the rules and procedures on the breakdown of a marriage.

### Part 8: Dispute Resolution

This part is created to address how possible land-related disputes are resolved outside of the courts, and includes the basic rules and processes for resolving these disputes. Disputes shall first go through facilitated discussions, mediation, negotiation, and move to final arbitration by the Dispute Resolution Panel if no agreement can be made. This part is founded on the principle that all members live harmoniously with due respect for the rights of others.

### Part 9: Other Matters

- **Liability** - Council will arrange for adequate insurance coverage.
- **Offences** - The summary conviction provisions of the Criminal Code apply to offences under the *Land Code* and laws enacted under the *Land Code*, unless some other procedure is provided for by a Land Law. Offences may be enforced by a Justice of the Peace appointed by Temagami First Nation, or a court of competent jurisdiction.
- **Revisions to the *Land Code*** that don't change the meaning and substance of the *Land Code* can be made (an example would be fixing grammar).
- **Commencement** - The *Land Code* will only come into effect if members approve both the *Land Code* and Individual Agreement. Once approved, the *Land Code* will take effect on the first day of the month following the certification of the *Land Code* by the Verifier.

For more information, or to read the full *Land Code*, go to [www.temagamilandcode.com](http://www.temagamilandcode.com)

#### Land Code Information

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