

SUMMARY OF THE BEAUSOLEIL FIRST NATION LAND 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 Beausoleil First Nation will exercise control and management over reserve lands and resources consistent with the *Framework Agreement*.

RATIFICATION

The *Land Code* has been developed by the Council and the *Land Code* Development Committee 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, Beausoleil First Nation will manage its own reserve lands, and Beausoleil First Nation Reserve lands and resources will no longer be managed by the Minister under the *Indian Act*.

CONTENTS OF THE LAND CODE

Preamble Whereas Beausoleil First Nation has a profound relationship with the Land that is rooted in respect for the Spiritual value of the Earth and the gifts of the Creator and has a deep desire to preserve their relationship with the Land.

Part 1 – Preliminary Matters

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

Authority to Govern The *Land Code* establishes Beausoleil First Nation's jurisdiction over all rights and resources in the Land, natural resources, and land revenues of Beausoleil First Nation and all rights and resources in Land Interests and Licenses.

Purpose The purpose of this *Land Code* is to set out the principles, rules and administrative structures that apply to Beausoleil First Nation Land and by which the Beausoleil First Nation will exercise authority over that Land in accordance with the *Framework Agreement*.

Description of Beausoleil First Nation Lands that is subject to the *Land Code* is the Indian Reserve known as Christian Island Indian Reserve No.30 and Christian Island Indian Reserve No. 30A. Other lands may be included in the *Land Code* in the future.

Part 2 - First Nation Legislation

Law-Making: Powers, Procedures, and Publication, Enforcement 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 Beausoleil 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.

Part 3 - Meetings of Members and Approvals

Community Approvals Certain land laws and other important land matters must be approved by the community before they can take effect. There are two methods of community approval: community approval at a meeting of members and ratification vote. Every member of Beausoleil First Nation who is 18 years of age or older, whether resident on or off reserve, can participate in a community 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 Beausoleil First Nation Land exceeding a term of thirty-five (35) years;
- any renewal of a grant or disposition of an interest or license in any Beausoleil First Nation Land that extends the original term beyond thirty-five (35) years;
- a grant of disposition of any non-renewable natural resources on any Beausoleil First Nation Land exceeding a term of five (5) years;
- any deletion of a heritage site;
- any voluntary exchange of Beausoleil First Nation land; and
- any Land Law of class of law that Council, by Resolution, declares to be subject to this sections.

Part 4 - Protection of Land

Acquisition of Land by Beausoleil First Nation The right of Beausoleil First Nation to acquire land can only be exercised after a good faith effort has been made to obtain by mutual agreement, the Interest or License in Beausoleil First Nation Land rather than by acquisition. And such acquisition shall only be made for the necessary community works or other Beausoleil First Nation in accordance with the *Framework Agreement* and any Land Law enacted.

Voluntary Exchange of Land The Beausoleil 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 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 be eligible to become reserve land, and 4) the land exchange must be approved by the Members.

Part 5 - Accountability

Conflict of Interest The Conflict of Interest Policy of Beausoleil First Nation shall apply for conflicts of interest that may arise in land management. No immediate Relatives and not more than two (2) members from the same Extended Family shall be concurrent members of an appointed board, committee or other body dealing with any matter that is related to Beausoleil First Nation Land. 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.

Part 6 -Land and Natural Resources Administration

Lands Department and Lands Committee 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 Beausoleil First Nation Lands and resources. Immediately upon the coming into effect of this Land Code, Council shall select a Land Committee to serve for a term of three (3) years until a policy governing the Lands Committee come into force. The Lands Committee will advise Council on land matters such as laws and policies.

Part 7 - Interests and Licences in Land

Revenue from Lands and Natural Resources The Lands Committee shall, subject to the approval of Council, establish a process and recommend any Land Laws, rules and policies for determination of fees and rent for Interests and Licenses, fees for services provided, and fees and royalties to be paid for the taking of natural resources.

Registration of Interest To be protected, Interests in and Licenses to use land must be registered. The Council will establish and maintain the Beausoleil First Nation 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 Beausoleil First Nation Land that existed when the Beausoleil 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 thirty five (35) 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 Beausoleil 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 Beausoleil 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 Beausoleil First Nation Land. Any individual may have access to Beausoleil 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 Beausoleil First Nation Land, who resides on, or enters or remains on Beausoleil 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 Beausoleil First Nation Land. A person who receives an Interest in Beausoleil 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 Beausoleil Land Register.

Spousal Property Law

Within 12 months of the *Land Code* coming into force, Beausoleil 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 Beausoleil First Nation Spousal Property Law would override the federal law.

Part 8 – Dispute Resolution

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.

Part 9 – Other Matters

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 Beausoleil 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.