

WEI WAI KUM LAND CODE – COMMUNITY SUMMARY

TAKING BACK MANAGEMENT OF OUR RESERVE LANDS

OVERVIEW

Wei Wai Kum First Nation has developed a Land Code for our community to vote on. The goal is to take back control from Indian Affairs so we can manage our own lands based on rules set by our own community.

The Wei Wai Kum First Nation Land Code was developed by a committee of members. The Land Code is completed and all Wei Wai Kum members will be able to vote on whether to accept the Land Code or to stay under the management of Indian Affairs.

POTENTIAL BENEFITS

A Wei Wai Kum Land Code would allow Wei Wai Kum to:

- a) Make timely business and land decisions without having to go to the Minister of Indian and Northern Affairs for approval (for example, Council could approve leases without having to go through INAC).
- b) Pass and enforce our own laws for environmental management and protection and for the protection of cultural and heritage values.
- c) Deal with the disposition of marital property in a way that does not discriminate between men and women.
- d) Have more and clearer protection against federal expropriation.
- e) Increase accountability.

SUMMARY OF WEI WAI KUM LAND CODE

The *Framework Agreement of First Nation Land Management* (the “Agreement”) was signed by the Minister of Indian Affairs and Northern Development and 13 First Nations on February 12, 1996. The goal was for First Nations to take over the control and management of their reserve lands and resources outside the *Indian Act*.

The Agreement was ratified on June 17, 1999 by the *First Nations Lands Management Act*.

Wei Wai Kum has been added as a signatory to the Agreement. The final step for Wei Wai Kum to exercise its land management is to create and enact our own Land Code and enter into an Individual Agreement with Canada. The following is a summary of the proposed Wei Wai Kum Land Code:

Part 1 – Preliminary Matters

This Part contains:

- definitions of specific words and terms used throughout the Land Code;
- sets out the Reserve lands to which the Land Code will apply
* **note there are issues with boundaries and Spit Road;**
- the purposes of the Land Code which are to set out the principles and structure by which the Wei Wai Kum will exercise our authority over Reserve lands (“Wei Wai Kum Lands”).

Part 2 – First Nation Legislation

This Part sets out the process for passing Wei Wai Kum land laws.

- Laws can be proposed by Council, by the Lands Committee, the Lands Manager, or by a petition signed by at least 25 members. Each proposal for a law must explain why the law is needed and how it is authorized by the Land Code.
- Sets out the types of laws that Council can pass on its own (all general land, regulatory and resource laws) and the specific laws which require a community vote (expropriations, land use plans, environmental assessment laws, and cultural site laws). Council can also pass laws to deal with emergency situations.
- Three specific laws are required. Wei Wai Kum must pass a matrimonial property law within 12 months and a land use planning and zoning and heritage sites law within 24 months.

Part 3: Community Consultation and Approvals

Part 3 sets out the requirements for community consultation and ratification votes for specific types of laws.

- Council is required to invite members to a meeting and to request their input before passing laws on subdivisions, environmental assessments, transfers or assignments of interests in Band lands, etc.
- Specific laws require a ratification vote by members: a land use plan, leases of Band lands for over 25 years, mining on Reserve, sale of water from Reserve, expropriations by Council, land exchanges of Reserve land, etc.
- Ratification votes are mail-in votes: there will be no votes ‘from the floor’ at community meetings.
- The ratification threshold for the Land Code (section 14.3) requires that 50% plus 1 of those who register must vote in favour and this number must be greater than 25% plus 1 of all eligible voters.
- The ratification threshold for votes on laws is 50% plus 1 of all votes who show up to vote.

Part 4: Protection of Land

Part 4 sets out protections for Reserve land.

- There are provisions for protection of heritage sites on Reserve.
- Council can expropriate CP land on Reserve but only for urgent transportation or utility corridors and only after negotiations have failed. Full market value must be provided and the community must vote in favour of the expropriation.
- Section 17 sets out the process to exchange parcels of Reserve land for new Reserve land. The draft approved by the Committee required at least an equal area of land to be provided. The revised draft would remove this requirement and allow for less land to be provided in exchange for more cash or other compensation. Council direction is required on this point.

Part 5: Accountability and Financial Management

This Part establishes strict rules to prevent conflict of interest for Council members and employees and contractors dealing with Reserve lands. It also sets out financial administration requirements for lands revenues.

- The basic requirement is that if anyone or their Immediate Relatives (as defined in the Land Code) have a financial or other interest in a matter being dealt with, they are required to disclose the nature of that interest and refrain from participating in the decision-making process.
- Council members or employees can be held individually liable to repay any money received by them or their family in violation of the conflict of interest rules.
- Wei Wai Kum is required to keep a separate bank account and separate records for revenues from Reserve lands and to only spend this money in compliance with a budget passed by Council.

Part 6: Lands Administration

This Part establishes a Lands Committee to assist and advise Council on implementation of the Land Code, to assist with community consultations and information and to recommend necessary laws, policies and procedures.

- The Committee will consist of 5 members, 1 appointed by Council, and 4 selected by a community vote.
- This Part also establishes Wei Wai Kum Lands Office which will administer the Land Code and Wei Wai Kum First Nation Land Laws, prepare the forms for use in registration and recording documents, and arrange for the registration and recording of transactions in the Wei Wai Kum Lands Register.
- No interest or licence in Wei Wai Kum Reserve Land can be created, granted or be enforced after the Land Code comes into effect unless it is registered or recorded in the Lands Register.

Part 7: Interests in Lands

This Part ensures that Wei Wai Kum's Land Code is the only way to create, grant and sell legal interests in Reserve Land. It enables Council to enact Laws for creating, granting, selling and leasing of interests and setting the standards for these interests based on the community processes described above and consultation with the Lands Committee.

- CPs, leases and other interests existing at the time the Land Code is enacted will continue to be in effect but will be administered by Wei Wai Kum rather INAC.
- The Land Code sets out a clear process for granting new Allotments (CPs).
- CP-holders can rent their land or houses for residential purposes but no commercial leases are permitted.
- All mortgages and leases are only valid if approved by Council.

Part 8: Dispute Resolution

This Part establishes a detailed process to settle Reserve Land and resource disputes outside the court system.

- Any dispute, including those arising prior to enactment of the Land Code, can be referred to an adjudicator who is required to act impartially. The adjudicator has broad powers to resolve disputes and its decisions are binding.
- Provision is also made for other formal processes including mediation and arbitration.
- All processes are optional and court or other civil processes are still available.

Part 9: Other Matters

This Part establishes requirements for liability insurance to cover the Wei Wai Kum First Nation and its representatives and employees when they are acting in good faith.

- It sets out the procedure for future amendment of the Land Code.
- It enables offences against the Land Code or Laws under the Code to be prosecuted as summary conviction offences. The Land Code and Laws will be enforced in the Provincial Court system or alternatively, Wei Wai Kum may enact Laws to appoint justices of the peace.
- Finally, the Land Code will come into effect after ratification by community vote and the date of certification of the Land Code by the Verifier.