



SUMMARY OF THE MADAWASKA MALISEET 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 Madawaska Maliseet First Nation will exercise control and governance over reserve lands and resources consistent with the *Framework Agreement*.

RATIFICATION

The *Land Code* has been developed by the Community for 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, Madawaska Maliseet First Nation will govern its own reserve lands and resources, and will no longer be managed by the Minister under the *Indian Act*.

CONTENTS OF THE *LAND CODE*

Madawaska Maliseet First Nation have the right to govern ourselves in relation to matters that are integral to our culture, identity, traditions, language, and with respect to their special relationship to the reserve lands and resources;

Madawaska Maliseet First Nation wish to govern our reserve lands and resources, rather than having our reserve lands and resources managed on their behalf under the *Indian Act*;

This *Land Code* will be the fundamental Land Law of the Madawaska Maliseet First Nation.

PRELIMINARY MATTERS

The title, definitions and interpretation are set out at sections 1 to 3.

AUTHORITY TO GOVERN AND PURPOSE

Jurisdiction and Authority

The *Land Code* establishes Madawaska Maliseet First Nation's jurisdiction over all rights and resources in reserve lands, natural resources, and land revenues and all rights and resources in reserve land interests and licenses. By enacting this *Land Code*, Madawaska Maliseet First Nation is reclaiming this special responsibility.

Purpose

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

Madawaska Maliseet First Nation Land

Land that is subject to the *Land Code* is that land known as St. Bastile Indian Reserve No. 10. Other lands can be included in the *Land Code* in the future.

LEGISLATIVE AUTHORITY

Law-Making Powers, Procedures, and Publication

Council may, subject to the terms of the *Land Code*, make land laws respecting the reserve lands and resources 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, any eligible voter, or a representative of the Lands Committee, or other body or authority composed of Members, that may be authorized by Council to do so. The proponent must also include a written explanation of the reason for the proposed land law. Members must be given notice before land laws are passed, and may be involved in the development or approval of certain types of land laws. Approved land laws must be posted in the minutes of the Council Meeting at which it was enacted, the administration office, online, and any additional method as Council may consider appropriate.

Enforcement

Madawaska Maliseet First Nation will have the jurisdiction to compel observance of and compliance with land laws, rules and obligations.

COMMUNITY ENGAGEMENT AND APPROVALS

Community Approval

Certain land laws and other important land matters must be approved by the community before they can take effect. Every eligible voter, whether resident on or off reserve, can participate in community approval processes and ratification votes to discuss and decide the following matters:

- an amendment to the *Land Code*;
- any master Land use plan;
- any grant or disposition of any non-renewable natural resources on any Land exceeding a term of five (5) years;
- any deletion of a heritage site;
- any voluntary exchange of Land referred to in section 18 of this *Land Code*;
- and

- any other matter, Land Law or class of law that Council, by Resolution, declares to be subject to this section
-

PROTECTION OF LAND

Acquisition by Mutual Agreement

The right of Madawaska Maliseet First Nation to expropriate can only be exercised after a good faith effort to acquire, by mutual agreement, the interest or licence.

Clear Rules for Acquisition

The *Land Code* and *Framework Agreement* provide clear and transparent rules for expropriation, notification, compensation and public reporting.

Voluntary Exchange of Land

The *Land Code* and *Framework Agreement* protect against loss of reserve land by surrender for sale and expropriation. However, Madawaska Maliseet First Nation may decide that it is advantageous to exchange some of its reserve land for other lands. An exchange of land cannot occur without the consent of the Members.

ACCOUNTABILITY

Conflict of Interest

Members of Council, employees, and any member of a board, committee or other body of the First Nation dealing with any matter related to First Nation land must disclose the conflict of interest and shall not take part in any deliberations or vote on that matter. They shall remove themselves from the proceedings. Any claims that there has been a breach of the conflict of interest rules may be referred to the dispute resolution panel.

Financial Accountability

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. Any person may have reasonable access to the register of land laws, the auditor's report and the annual report on reserve land and natural resources.

LAND AND NATURAL RESOURCES ADMINISTRATION

Lands Staff

The Council may delegate administrative authority to staff to carry out functions necessary for day-to-day administrative operations of Madawaska Maliseet First Nation lands and natural resources.

Lands Committee

The first Lands Committee shall serve a term of up to five (5) years, and shall be selected by Council until a policy governing the Lands Committee comes into force. The Lands Committee will assist with the development of the land administration system, advise Council and its staff on matters respecting land, recommend land laws, resolutions, policies and practices to Council, consult with Members on land issues, and make recommendations on the resolution of such issues to Council, oversee meetings of members, community approvals and ratification votes, and perform such other duties as may be delegated.

INTERESTS AND LICENCES IN LAND

Registration of Interests

An interest or licence in Madawaska Maliseet First Nation land created or granted after this *Land Code* takes effect is not enforceable unless it is registered in the First Nation Lands Register.

Existing Interests

Any interest or licence in Madawaska Maliseet First Nation land that existed when this *Land Code* takes effect will, subject to this *Land Code*, continue in force in accordance with its terms and conditions. This includes member and third-party interests.

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 or under the matrimonial real property law on reserve, require the consent of Council.

Limits on Mortgages and Seizures

A leasehold interest or the interest of a Member in Madawaska Maliseet First Nation land may be subject to a mortgage or charge, with the written consent of Council. The term of any charge or mortgage of a leasehold interest shall not exceed the term of the lease.

Residency and Access Rights

The existing Madawaska Maliseet First Nation Residency by-law shall determine the residency rights on Madawaska Maliseet First Nation Land and may be replaced upon the coming into force of a Land Law or policy that Council may enact pursuant to this *Land Code*.

Wills and Estates

The provisions of the *Indian Act* dealing with wills and estates shall continue to apply with respect to interests in Madawaska Maliseet First Nation land. An interest or a transfer of an interest will be issued to a person who receives an interest in accordance with a written decision of the Minister.

Matrimonial Real Property on Reserve Law

Madawaska Maliseet First Nation must enact a Matrimonial Real Property on Reserve Law that establishes the rules and procedures to be applied on the breakdown of marriage that must not discriminate on the basis of sex and must provide for the best interests of children. Only Members are entitled to hold a permanent interest in Madawaska Maliseet First Nation land. The Matrimonial Real Property on Reserve Law once enacted under the *Land Code* supersedes the new federal spousal property legislation.

DISPUTE RESOLUTION

Madawaska Maliseet First Nation Appeals Board

The Madawaska Maliseet First Nation Administrative Appeals Policy shall apply for disputes in relation to Interests or Licenses in Madawaska Maliseet First Nation Land unless and until a Land Law is enacted in accordance with this *Land Code*.

Powers of the Madawaska Maliseet First Nation Appeals Board

A recommendation of the Madawaska Maliseet First Nation Appeals Board under the Madawaska Maliseet First Nation Administrative Appeals Policy shall not be legally binding. A final decision on the matter of an appeal shall rest with Council after considering any recommendations of the Madawaska Maliseet First Nation Appeals Board.

OTHER MATTERS

Offences

The summary conviction provisions of the Criminal Code apply to offences under the *Land Code* or land law enacted under the *Land Code*, unless some other procedure is provided for by a land law.

Commencement

This *Land Code* shall take effect if 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.