

SUMMARY OF THE *HIAWATHA 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, rules and administrative structures that apply to Hiawatha First Nation Land and by which Hiawatha First Nation will exercise authority over that Land in accordance with the *Framework Agreement*.

The *Land Code* establishes Hiawatha 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*, Hiawatha First Nation is reclaiming this special responsibility.

RATIFICATION

The *Land Code* has been developed by the Community for the Community. The *Land Code* does not come into force unless the citizens approve both the *Land Code* and the Individual Agreement with Canada in a ratification vote. If the *Land Code* is approved, Hiawatha First Nation will govern its own reserve lands and resources and will no longer be managed by the Minister under the *Indian Act*.

PREAMBLE

Hiawatha First Nation has a profound and sacred relationship with the land, acknowledging that the land is a gift from the Creator. We recognize our responsibility to protect the lands, water and resources in perpetuity for future generations and to protect the rights of Hiawatha First Nation citizens. The teachings given to us by the Creator speak of the obligation of the Mississaugii people to care for and respect the Land and by enacting this *Land Code*, the Hiawatha First Nation is reclaiming this special responsibility. This *Land Code* will be the fundamental Land Law of the Hiawatha First Nation.

PART 1 - PRELIMINARY MATTERS

The citation, definitions and interpretation are set out in sections 1.

The purpose of the *Land Code* is to set out the principles, rules and administrative structures that apply to Hiawatha First Nation Land and by which Hiawatha First Nation will exercise authority over that Land in for the benefit of the First Nation.

PART 2 – LANDS AFFECTED

Land that is subject to the *Land Code* is that land known as Hiawatha First Nation Reserve as described in Appendix "G" of the Individual Agreement. Other lands can be included in the *Land Code* in the future.

PART 3 – EXECUTIVE AUTHORITY

Power and authority to manage Land and to implement this *Land Code* and land laws or other instruments enacted under it shall be vested in and carried out by Council or any person or body to whom a power is delegated.

PART 4 - LEGISLATIVE AUTHORITY

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

PART 5 – ENACTMENT OF LAND LAWS

Land laws may be proposed by a member of Council by motion in an open session, or by any eligible voter at any time provided in the agenda of an open session of Council, or with the leave of the Chair at an open session of Council. Citizens must be given notice before land laws are passed and may be involved in the development or approval of certain types of land laws.

Community Consultation

Council shall consult with eligible voters in a community meeting prior to enacting any of the following:

- a grant or disposition of an interest, right in or licence relating to community land by the First Nation to a person other than a citizen for a term exceeding 25 years;
- a law to govern expropriation procedure or any particular expropriation for community purposes pursuant to Part 14;
- a land law which creates an offence punishable under the *Criminal Code*;
- any land law or class of land law that Council, by resolution, declares to be subject to community consultation.

Community Approval

Land laws in respect of the following matter may be enacted by Council only with community approval:

- Comprehensive land use planning and approval controls for Hiawatha First Nation land;
- An environmental stewardship law affecting all or substantially all of the reserve land;
- The designation of an izhitwaawin site (sacred, traditional or culturally significant lands) and any amendment or cancellation of a designation;
- General rules and procedures respecting, in cases of breakdown of marriage and other conjugal partnerships, the use, occupation and possession of Hiawatha First Nation land and the division of interests or rights in that land;
- Any matter submitted to the eligible voters pursuant to the conflict of interests rules in Part 13;
- Any voluntary exchange of Land referred to in Part 15 of the *Land Code*; and

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

PART 6 – CERTIFICATION, PUBLICATION AND REGISTRATION OF LAND LAWS AND OTHER INSTRUMENTS

Approved land laws must be posted in the minutes of the Council Meeting at which it was enacted, on a notice board accessible to Citizens in the administration offices, on a citizen-accessible portion of the website, and by publication of a notice where Council so directs.

Land Law Registry

Council shall establish and maintain a Hiawatha First Nation Land Laws Registry under the direction of a Registrar of Land Laws and shall contain a depository of certified copies of *Land Code* enactments and other instruments submitted by Council and accepted for registration, with any supporting documentation. It will also contain a land laws abstract index.

PART 7 – LAND MANAGEMENT

Council is committed to the development and implementation, in consultation with citizens, of comprehensive land use planning and approval controls, environmental stewardship laws, general rules on the breakdown of a marriage, and general rules, procedures and policies regarding revenues generated from the land and local services.

Advisory Committees and Working Groups

Council may appoint advisory committees or working groups to assist in community meetings, advise Council with the implementation and application of the *Land Code*, develop laws, policies and regulations, and to perform other duties as may be assigned.

PART 8 – FINANCIAL ADMINISTRATION, REPORTING AND ACCOUNTABILITY

Council is accountable to citizens for the management of moneys, land and natural resources under the *Land Code*. An annual report will be prepared and published for the citizens. Land Management Reports will be available to citizens on the First Nation's website, or in hardcopy upon written request.

PART 9 – INTERESTS AND OTHER RIGHTS IN HIAWATHA FIRST NATION LAND

Existing Interests

Any interest and other rights in Hiawatha First Nation land held pursuant to allotments under subsection 20(1) of the Indian Act or pursuant to the custom of the Hiawatha First Nation will, subject to this *Land Code*, continue in force in accordance with its terms and conditions.

New Interests and Licenses

All new allocation of Land, interests and licences, shall be granted in accordance with the *Land Code* once it takes effect.

Transfers of Interests and Licenses

Citizens may transfer their interests to other citizens, grant to any person a lease, permit or licence within the terms of the original certificate and subject to the *Land Code*, or transfer the certificate to the Hiawatha First Nation for cancellation.

Limits on Mortgages and Seizures

A leasehold interest in or licence relating to Hiawatha land may be subject to charge, mortgage or pledge. A certificate of possession or allocation shall not be subject to charge, mortgage or pledge except to Hiawatha First Nation.

Registration of Interests

An interest or licence in Hiawatha First Nation land created or granted after this *Land Code* takes effect is not enforceable unless it is registered in the First Nation Lands Registry of such other registration system as Council may specify.

PART 10 - DISPOSITION OF LAND ON THE DEATH OF A MEMBER

The provisions of the *Indian Act* dealing with wills and estates shall continue to apply with respect to interests in Hiawatha First Nation Land. A person who receives an Interest in Hiawatha 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 First Nations Land Registry.

PART 11 - RIGHTS OF RESIDENCY AND ACCESS

A citizen, and residing with the citizen, the spouse, child or grandchild and any person in care or custody of a citizen, and invitees of that citizen have the right to live on and have a right of access to Hiawatha First Nation Land. Lessees with a right of residence, and those persons authorized by a Land Law also have a right to live on and a right to access Hiawatha First Nation Land. Any person may use public access lands and public roads in accordance with applicable laws. However, individuals who trespass or interfere with occupied Lands, who do not comply with all applicable laws, is barred from Hiawatha First Nation Land, who resides on, enters, or remains on Hiawatha First Nation Land other than in accordance with a residency or access right is committing an offence.

PART 12 – DISPUTE RESOLUTION

A person who wishes to seek the resolution of a dispute with the Hiawatha First Nation or another person in relation to the management, possession, use or occupation of or provision of services to Hiawatha First Nation Land may submit to Council a written request for dispute resolution. Dispute resolution may take the form of discussions facilitated by a mediator or binding arbitration.

PART 13 – CONFLICTS OF INTEREST

An office holder is in a conflict of interest when they exercise an official power, duty or function that provides an opportunity for that official to further their private interests or those of their immediate family or business associates, other than an interest held in common with all other citizens, or to improperly further another person's private interests. They shall not make any decisions or exercise any powers and shall recuse themselves from the matter.

PART 14 – EXPROPRIATION FOR COMMUNITY PURPOSES

The right of Hiawatha First Nation to expropriate can only be exercised after a good faith effort to acquire, by mutual agreement, the interest, right in or licence relating to Hiawatha First Nation Land, or for community works. The *Land Code* and *Framework Agreement* provide clear and transparent rules for expropriation, notification, compensation and public reporting.

PART 15 – EXCHANGE OF LAND

The *Land Code* and *Framework Agreement* protect against loss of reserve land by surrender for sale and expropriation. However, Hiawatha 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 community approval.

PART 16 – ENFORCEMENT

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. Hiawatha First Nation may appoint prosecutors, enforcement officers and Justices of the Peace to enforce the *Land Code* and any land laws.

PART 17 – GENERAL

Other than minor changes to this *Land Code* that do not change the purpose, intent or substance, the *Land Code* may only be amended by a community approval vote.

In Force Date

The *Land Code* shall come in force on the earlier of six months after the certification of this *Land Code*, or the date which Council by resolution declares the *Land Code* to be in force.
