



LAND CODE DEVELOPMENT- LANDS COMMITTEE AND LAND CODE COORDINATOR



SERPENT RIVER FIRST NATION

LAND CODE DEVELOPMENT

NOVEMBER 2016

ISSUE # 2

Update on survey of Serpent River Reserve lands

You may have noticed surveyor pegs if you have been out on the land lately. That is because a land survey of the reserve is under way. The survey will be completed in January 2017.

Serpent River First Nation (SRFN) is working on a Land Description Report as part of the Land Code project. When it is time to vote on the Land Code, community members will be presented with a copy of the **Land Code** and the **Individual Agreement**. Within the Individual Agreement there will be specific information on what lands will be transferred to SRFN's management. The Individual Agreement will also provide details about how the transfer will occur.

A Land Description Report will form part of the Individual

Agreement. Also, there will be an Environmental Assessment done in the spring of next year.

The land survey is necessary to define and describe the Reserve land that will be managed by SRFN. The Land Description Report will include all land interests and rights in that land. Examples of land interests include leases, easements, rights of way and Certificates of Possession. SRFN must notify all third party interests that the community is planning to assume control of reserve lands under a Land Code.

If you have a land interest or know of someone that has a land interest that may not be documented, such as a camp lot, please notify Taylor Commanda at the Lands and Resources Unit at 705-844-2418 ext.235.



FIRST DRAFT OF LAND CODE

THE LAND CODE IS IN THE DEVELOPMENT PHASE. PARTS 1, 2 AND 3 OF THE LAND CODE ARE AVAILABLE FOR VIEWING ON THE SERPENT RIVER FIRST NATION WEBSITE AND AT THE BAND OFFICE.

<http://www.serpentrivernation.ca>

WE NEED YOUR INPUT

Community members are invited to add to the Land Code. We want your ideas. Please attend Community Meetings when they are scheduled. Please email the Land Code Coordinator with your comments or questions at:

Lorraine.rekmans@sympatico.ca



First Nations Under A Land Code Are Protected from Expropriations

First Nations who vote to adopt a Land Code and manage their reserve lands under that Land Code have assurances that the land will not be sold, exchanged, conveyed or transferred except for any exchange or expropriation of land that is made under the Framework Agreement on First Nation Land Management. Under the Framework Agreement, as a general principle, First Nation lands will not be subjected to expropriation. However, if lands are expropriated it must be only with the consent of the Governor in Council, and only by and for the use of a federal department or agency. There is a provision in the Framework Agreement to ensure that land expropriation will be limited to cases where it is justifiable and necessary for a federal public purpose that serves the national interest. The Act also requires Canada to provide alternate land to the First Nation, which would become First Nation land, in order to protect the land base of the First Nation. The Legislation contains provisions on compensation and the resolution of disputes over expropriation.



Did You Know?

In the 1870's, a public road known as the "Tote Road" and later as the "Cutler-Spanish Station Road", was constructed across the eastern end of the Serpent River Reserve to provide public access to Aird Bay and the Kennebutch railway station, both of which were within the Reserve's boundaries. Later the road was extended to connect with the CPR Station at Spanish River. Tote Road was used by the public from the 1870s to 1912. In 1909, a large part of the Tote Road crossing Serpent River Reserve was incorporated by the Province of Ontario into Provincial Road 939. It was the first continuous wagon road from Sudbury to Sault Ste. Marie. The Indian Agent took a land surrender for 50-acres in 1909, where the Chief and Council asked for certain terms and conditions to be met.

STEPS TOWARDS A LAND CODE

1. The First Nation submits a Band Council Resolution to the regional INAC office .
2. The First Nation completes and submits an Assessment Questionnaire to the regional office.
3. INAC reviews applications and identifies successful candidates. If a First Nation is successful, INAC makes a recommendation to the Minister of Indigenous and Northern Affairs that the First Nation be added to the Framework Agreement on First Nation Land Management through an adhesion document.
4. Once both the Minister and the First Nation have signed the adhesion document, the First Nation is added to the Schedule of the First Nations Land Management Act.
5. The First Nation then enters the developmental phase by signing an implementation document. The implementation document outlines developmental activities such as drafting a land code, negotiating an individual agreement with Canada, holding community consultations, and a ratification vote.
6. The First Nation community members approve the land code and individual agreement by a **ratification vote**.
7. Once a land code and individual agreement have been approved, the Minister will sign the individual agreement, transferring control of the First Nation's land and resources over to the First Nation. The 32 sections of the *Indian Act* dealing with land, resources and environment no longer apply to that First Nation.

Once the land code is in effect, the First Nation is considered operational under the First Nations Land Management Regime and has management authority and law-making powers over its reserve lands.

At the request of the First Nation, the Lands Advisory Board and Resource Center assists First Nations in implementing changes to their land and resource management.

Natural Resources Canada provides a description of the lands that will come under the management of a community's land code.

Within the Land Code

A Land Code will be the basic land law of the First Nation and will replace the land management provisions of the Indian Act.

The Land Code will be drafted by the First Nation and will make provision for the following matters:

- Identification of the reserve lands to be managed by the First Nation (called “First Nation land”),
- General rules and procedures for the use and occupation of these lands by First Nation members and others,
- Financial accountability for revenues from the lands (except for oil and gas revenues, which will continue to be governed under the Indian Oil and Gas Act),
- The making and publishing of First Nation land laws,
- Conflict of interest rules,
- A community process to develop rules and procedures applicable to land on the breakdown of a marriage,
- A dispute resolution process,
- Procedures by which the First Nation can grant interests in land or acquire lands for community purposes,
- The delegation of land management responsibilities, and
- A procedure for amending the Land Code.

WHAT IS IN THE LAND CODE? The Land Code contains 9 Parts. The first three parts are available for comments from community members. Please visit the Serpent River First Nation Website to see the first 3 parts of the Land Code. <http://www.serpentriverfn.ca> You can email comments to: Lorraine.rekmans@sympatico.ca. If you would like a paper copy of the Land Code please contact Kerri Commanda at lrcu.srfn@gmail.com or call 705-844-2418 ext.232

LAND CODE- PART 1 Preliminary Matters

Part 1 of the Land Code provides the definitions to be used in the document and determines how the document will be interpreted. It sets out the purpose of the Land Code. The purpose is to set out rules to govern Reserve Land and resources. It states that Serpent River First Nation has the authority to govern its Land and resources. The principles state that the Land and resources will be governed according to the culture and traditions of the people.

LAND CODE- PART 2 First Nation Legislation

Part 2 sets out the authority of Serpent River First Nation to make laws about Reserve land and resources. This section allows for community members to have input into how land laws are introduced. These laws will be for development, conservation, protection, management and possession of land and resources.

Any Land laws will have to be made public to members. This part states that Serpent River First Nation will have authority to enforce land laws.

LAND CODE –PART 3 Community Meetings and Approvals

Part 3 sets out how community meetings will be held and how eligible voters will take part in decision making about land use.

A community vote will be required for:

- Land use plans,
- the granting of licenses that are longer than a term of 35 year and,
- any changes that are to be made to the Land Code.

WHERE ARE WE IN THE LAND CODE PROCESS?

YEAR ONE

JULY – SEPTEMBER 2016	OCTOBER – DECEMBER 2016	JANUARY- MARCH 2017	APRIL- JUNE 2017
First Draft of Land Code is ready for community comments. Announcement of the Land Code Project Land Survey is under way	Begin identifying all eligible voters from Serpent River First Nation Establish a community voting process Community Consultation Work begins on Individual Agreement Collect comments on Part 1, 2 and 3 of Land Code	Survey is to be completed Land Description Report will be prepared Environmental Assessment to begin. Community Consultation Collect comments on Part 4, 5, and 6 of Land Code.	Continue to Identify voters Community Consultation Land Description Report Continue work on Individual Agreement Collect comments on Part 7, 8 and 9 of Land Code and finalize the Land Code.

YEAR TWO

JULY- SEPTEMBER 2017	OCTOBER-DECEMBER 2017	JANUARY – MARCH 2018	APRIL-JUNE 2018
Draft 3- of Land Code Negotiate Transfer Agreement Locate Voters Notify Third Party interests Finalize steps for voting process	Finalize Land Code Approve Land Description Report Legal Review of Transfer Agreement Community Meeting	Finalize Voters List Documents delivered to Community Members Set Voting Date	Vote to be held on Land Code and Individual Agreement