# How to Set Up & Run a First Nation Lands Office

*"Quick Reference Guide"*

June 2022

# 1. Introduction

The *"Quick Reference Guide" to Set-up and run a Lands Office* is intended to be a resource and tool for readers that may not be familiar with the requirements of a land management office set-up. It contains very basic information to assist the user to better understand the fundamental concepts of what is required, why, and how to use it efficiently.

Land Management On-Reserve Process

Structure

Objective

# 2. Getting Started

In a well set-up office, the equipment, the systems and the office environment all contribute to making the lands staff and the organization more efficient.  If possible it is beneficial to plan your office properly from the start Instead of patching it together as you go along.

| | |
|---|---|
| Furniture | Communication Equipment |
| Office Equipment | General Equipment |
| Office Supplies | |

# 3. Administration

The general administration function encompasses the functions, sub-functions, processes, activities, and transaction of administrative business concerning the management of services commonly conducted in the Lands Department to facilitate the application of operational policy and the delivery of programs and services. The administration is focussed on good management practices.

First Nation Profile

Mission Statement

Team Charter

Organizational Chart

Administration Policies/Procedures

Orientation Guide or Handbook

- **#1 Breakout**

*What should be included in a Lands Department Orientation Guide/Handbook?*

# 4. Operations

Operations are the tasks consisting of one or more elements or subtasks, performed typically with a department of an organization or the organization itself. Operations transform resource or data inputs into desired good, services, or results, and create and deliver value to the client, partner, etc. Operations involves the responsibility of ensuring that business operations are efficient in terms of using as few resources as needed, and effective in terms of meeting requirement.

- Strategic Plan (slide 11)
- Human Resource Planning
- Land Regime
- Training Plan
- Work Plan
- File System
- Reporting
- BF System
- Project Management System
- Equipment Inventory
- General Finance

# 5. Policies and Procedures (General)

Policies are principles, rules and guidelines adopted by an organization to reach its long-term goals. Policies and procedures are designed to influence and determine all major decisions and actions, and all activities take place within the boundaries set by them. Procedures are the specific methods employed to express policies in action in day-to-day operations of the organization. Together, policies and procedures ensure that a point of view held by the governing body of an organization is translated into steps that result in an outcome compatible with that view.

- Personnel Committee
- Housing
- General Communications
- File System
- Chief and Council
- Lands and Resources
- Economic Development
- Interdepartmental Communications

# 6. Bylaws/Laws

A First Nation can make their own laws (bylaws) to regulate and control certain activities on reserve. First Nation bylaw is a local law that is passed by the First Nation Council to help control certain activities within the community. Bylaws can be passed First Nation Councils under the authority given to them in the *Indian Act*. The bylaw has absolutely no effect outside reserve boundaries. A bylaw is strictly a local law.

- MRP
- Residency
- Trespass
- Open Burning
- Wildlife Management
- Zoning
- Traffic
- Storage Tanks
- Property Taxation
- File System

# EXAMPLE: A By-law to Regulate Open Burning

- **LAW:** A First Nation made their own bylaw to regulate and control open burning on reserve.
  - Big Mountain First Nation “A Law to Regulate Open Burning” Law No. 2015-04
  - Section 1.0 **Short Title** i.e. “*Open Burning Law. No. 2015-04*”
  - Section 2.0 **Interpretation** i.e. “Nation’ means Big Mountain First Nation
  - Section 3.0 **General** i.e. no person carry on or permit open burning on the reserve except……..;

- Section 4 **Permits** i.e. Any person wishing to obtain a permit shall apply in writing…….
- Section 5 **Other Open Burning** i.e. Open burning is permitted without a permit…….
- Section 6 **Limitations of Open Burning** i.e. Where an inspector determines that false information has been provided to obtain a permit…….
- Section 7 **Penalties** i.e. Every person is guilty of a summary conviction offence punishable by……
- Section 8 **Liability of the Nation** i.e. The Nation, Council, the members of Council, and the employees, contractors, and agents of the Nation are not liable……..
- **BE IT KNOWN** that this law entitled “Opening Burning Law, is hereby enacted as Law 2015-04……

# 7. Planning

Public policy planning includes environmental, land use, regional, urban and spatial planning. It is “an anticipatory decision-making process” that helps in coping with complexities. It is deciding future course of action from amongst alternatives. It is a process that involves making and evaluating each set of interrelated decisions. Planning and goal setting are important traits of an organization. It is done at all levels of the organization. Planning gives more power over the future. Planning is deciding in advance what to do, how to do it, when to do it, and who should do it. This bridges the gap from where the organization is to where it wants to be.

- Land Use Plan
- Capital Plan
- Strategic Plan
- File System
- CCP
- CESP
- Physical Plan

# 8. Transactions

Creation or Expansion of Reserves

Transfer of CP

Reversion of a CP

Absolute Surrender for Sale or Exchange

Use of Uncultivated Land by 3rd Parties for Grazing

Expropriation, Transfer or Grant of Reserve Land for Public Roads & Highways, Transmission Lines, Railway easements, Crossing, Etc.

Allotment of Land

Transfer of CP under a Will or Intestacy

Cancellation of CP due to Fraud, Error

Designation for Leasing

Lease of Locatee Land by Third Parties

Permits for Removal of Clay, Sand, Gravel, Other Non-Metals, Wild Grass or Fallen Timber

# 9. Surveys/Maps

Transactions create, change, transfers or terminates and interest in land. It may be internal: involving only the First Nation and its members; or external: involving the First Nation and its members and third parties. An interest in reserve land is a legal right to occupy, use or otherwise benefit from reserve land. The Minister of Indigenous Affairs Canada has a role in transactions under the *Indian Act*. This means for example that the Minister (and in some instances, the Governor in Council) must approve all transactions and must execute the relevant documents.

Survey Plan Types

Registration

GIS

File System

# 10. Lands & Natural Resources Resource Inventory

A First Nation's Land and Natural Resources Inventory is a comprehensive survey of land capability and use for natural resources and land use planning. Over the years many First Nations have experience problems of land use conflict, competition for land and land misuse. These problems can be minimized by classifying and mapping land capabilities. The inventory should include assessments of land capability for residential, agriculture, commercial, recreation, forestry, mining, water, wildlife, etc.

# 11. Environment

Good environmental planning will foster good sustainable planning practices, ecosystem consideration in land use planning and the creation of a balance between ecosystem health and development.  It is essential that we implement sustainable development strategies to ensure we do not compromise the ability of future generations to meet their own need.

Environmental Management System

Environmental Studies

Authorities

File System

# 12. Compliance and Monitoring

The extent and complexity of compliance requirements is increasing. Failures in these areas may result in costs through litigation and penalties but may have fare more significant implications for the First Nation. Compliance failures may result in damage to lands and resources, to the First Nation's reputation, or result in the death or injury of a member, an employee or third party. The authority to monitor compliance within lands and resource instruments flows form the contractual requirements imposed in the instrument. There is no statutory authority for compliance.

| | |
|---|---|
| Lands and Natural Resources | Tools |
| Environment | File System |

# 13. Indian Land Registry

The *Indian Act* provides for a system to record reserve land transactions. Certain requirements must be met In order to protect those who enter into agreements conveying an interest in reserve land. Firstly, the agreement must be in writing; and secondly, the agreement must be permanently recorded for public scrutiny; and thirdly, a standard of quality in the recording process itself.

Preparing Documents
Execution
Legal Description
Registration of Documents
File System

Instruments
Registration Application
Supporting Documents
Registration Rejection

# 14. Record Keeping

Record keeping is accounting and other documents that must be kept in an organized way. Records were traditionally kept in paper format and were called books and records. Today many types of electronic records are kept on computer systems. Records must be supported by original documents. Supporting documents provide documentary evidence of transactions. To the extent that they record binding agreements, they can be relied upon when disagreements arise between transacting parties.

Document Management System

Band Council Resolution

Abstracts

Types of Records

Bookkeeping

Communications

Back-up

# 15. Archives

An archive is an accumulation of historical records, or the physical place they are located.  Archives contain primary source documents that have accumulated over the course of an organization's lifetime, and are kept to show the function of that organization.  In general, archives consist of records that have been selected for permanent or long-term preservation on grounds of their enduing cultural, historical, evidentiary value.  The term "archive" should not be confused with the meaning of the term "record keeping".

- Hard Copy

- Electronic

# 16. Resource Library

A resource is a source or supply from which benefit is produced i.e., dictionary. A resource library is an organized collection of sources of information made accessible to those who require it. It is meant to provide staff members with the tools necessary to succeed in their tasks. The Lands Department should develop a collection of materials on subjects related to land management. Day-to-day operations of the Lands Department requires access to common reference books, documents, databases, newspapers, maps, etc.

- *Indian Act*
- Indian Land Registration Manual
- Surveys, Parcels and Tenure on Canada Lands
- Other
- Land Management Manual
- Canadian Law Dictionary
- File System

# #2 Breakout

- What should be included in a Lands & Natural Resources Inventory?

# Roles & Responsibilities of a Lands Manager

June 2022

# Levels of Responsibility

- Levels of responsibility refers to the degree or level of responsibility to be assumed by the First Nation Land Manager for activities related to land and environmental management.
- It also refers to the knowledge, skills and experience required.

- Levels of responsibility are based on:
  - Activities performed by the Lands Manager
  - Competency required
  - Amount and complexity of land management activity
  - Training required
  - Experience

# Roles and Responsibilities

- Responsible for all land and natural resource activities
- Negotiate, draft and finalize leases
- Negotiate, draft and finalize permits
- Draft lands instruments:
  - allotments
  - transfers, etc.

- Prepare reports for all transaction type:
  - Land Transaction Information Report
  - Land Inspection Report
  - Locatee Consent; etc.
- Confirm survey requirements are met
- Ensure appraisals are conducted

- Enter transactions into TLIMS, “Trust and Lands Information Management System”, (formerly known as NetLands) or comparable database system
- Manage the community land use plan
- Manage environmental processes
- Conduct compliance related activities
- Complete registration requirements

- Enter transactions into Indian Land Registry System
- Forward completed registration packages to ISC
- Receive registration particulars and send documents to proponents
- Maintain adequate land management records and systems
- Maintain a complete land data system

- Maintain adequate financial management systems and audits
- Follow applicable legislation, departmental policies and systems for managing activities on reserve
- Provide information to members and third parties regarding the status of their lands and issues related to the granting, alteration, transfer or alienation of interest in those lands

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- Represent your First Nation in dealing with third parties and other federal agencies regarding the management of First Nation lands under the *Indian Act*

- Provide ISC with input and advice i.e., lease negotiations

- Liaison with NRCan, ISC, members and third parties to resolve issues relating to the management of lands

- Inspect reserve boundaries and lease and permit sites to identify encroachments or violations of the terms of any agreement(s)

- Conduct other site-specific functions such as supporting or assisting survey work, resource inventories or environmental audits

- Liaison with survey project i.e., capital project may include funding for surveys
- Monitor compliance with non-site related terms such as insurance and payment of rent
- Carry out specific Crown obligations under the leases and permits by conducting rent reviews/appraisals
- Other services may include preparing and submitting approvals for allotments under Section 20, setting aside lands under Section 18(2) and supporting ISC in relation to designations

# Impacts

- Increased involvement in the full scope of land and environmental management activities
- Accountable for results achieved through the land and environmental management activities
- Increased control of compliance activities and processes, and accountability for reporting

# #3 Breakout

Develop a list of competencies a Lands Manager should have. Organize the competencies into three categories:

- Abilities
- Knowledge; and
- Skills