

**FLYING DUST FIRST NATION**

**LAND LAW #2014/001**

**for**

**USE AND OCCUPANCY**

**Enacted this 29th day of September, 2014.**

**Land Law #2014/001**

# LAND LAW

## For Use and Occupancy of FDFN Lands

### PREAMBLE

**WHEREAS** the Flying Dust First Nation has entered into the *Framework Agreement on First Nation Land Management* with Canada on October, 2005, as amended, and as ratified on behalf of the Government of Canada by the *First Nation Land Management Act*, S.C. 1999, C. 24;

**AND WHEREAS** the Flying Dust First Nation had the option of withdrawing the provisions of land management from the *Indian Act* which sections are outlined in Section 38 of the *First Nations Land Management Act*;

**AND WHEREAS** by withdrawing land management from those provisions of the *Indian Act*, Flying Dust First Nation through their Land Code has the authority and jurisdiction to exercise control and management over their lands and resources for the use and benefit of its Members, rather than having their lands managed by Canada;

**AND WHEREAS** the title to FDFN Lands listed in the *FDFN Land Code* and the *Individual Agreement* between FDFN and Canada will remain with Canada and will continue to be set apart for the use and benefit of FDFN;

**AND WHEREAS** the Flying Dust First Nation ratified their own Land Code on June 20 & 21, 2013 for the purposes of setting out the principles, guidelines and processes by which FDFN will exercise control and management over its lands and resources consistent with the *Framework Agreement on First Nation Land Management* and the *First Nation Land Management Act*;

**AND WHEREAS** the Flying Dust First Nation Land Code took effect as of October 7, 2013 pursuant to the ratification of the Members of Flying Dust First Nation;

**AND WHEREAS** pursuant to Section 6.1 of the *Flying Dust First Nation Land Code*, Land Laws may be enacted in relation to the development, conservation, protection, management, use and possession of FDFN Lands; and Interests, Permits and Licenses in relation to those lands and any law necessary or ancillary to those laws.

“DFN Land Registry” means the registry system in which an Interest, License or Permit for the use of DFN Land will be maintained by Flying Dust First Nation;

“DFN Lands” means all the lands referred to in the *DFN Land Code*, including all the rights and resources belonging to those lands;

“DFN Member” means a person whose name appears on the Flying Dust First Nation membership list or is entitled to appear on such list as governed by the Flying Dust Membership Code;

“First Nations Land Registry System” means the registry system maintained by Aboriginal Affairs and Northern Development Canada pursuant to the *First Nation Land Management Act*, Section 25;

“Interest” in relation to DFN Land, means any estate, rights or interest of any nature in or to the land but does not include title to the land;

“Lands and Resource Commission” means the executive body of DFN that will facilitate present and future administration, management and land planning, and which is established by Band Council Resolution #2013/14-90 dated March 27, 2014 pursuant to s. 24.7 of the *DFN Land Code*, and attached hereto as “Annex 1”;

“Land Law” means any Land Law enacted pursuant to the *DFN Land Code*, as amended from time to time;

“Land Manager” means the person designated by Council to administer and carry out duties assigned under the Lands and Resource Commission and this Land Law;

“Land Resolution” means a written resolution signed by a quorum of Chief and Council giving consent and approval on a particular issue, relating to DFN Lands, requiring approval from Chief and Council;

“Land Use Plan” means the plan that shall be adopted by the eligible voters of Flying Dust to supplement this Land Law and which DFN shall use as a guide for allocating use of land;

Authority Criteria

- 3.2 This Land Law will set out the guidelines and criteria that shall be adhered to by Chief and Council, the Lands and Resource Commission, FDFN Members, Interest holders and any and all users, occupiers or potential Interest holders.

Authority to Administer

- 3.3 In accordance with and subject to sections 5.3 and 5.4 of this Land Law, the Lands and Resource Commission as delegates of Chief and Council, shall have general authority and jurisdiction over the administration of all Interests relating to FDFN Lands issued pursuant to the *FDFN Land Code*.

Term of jurisdiction

- 3.4 The term over which the Lands and Resource Commission shall have jurisdiction to exercise its rights and privileges under this Land Law shall be deemed to commence October 7, 2013, and shall continue until such time as the FDFN Chief and Council rescinds this Land Law.

#### 4. INTERESTS, PERMITS AND LICENSES

Type of Interest, Permit or License

- 4.1 Chief and Council have the authority pursuant to the *FDFN Land Code*, to grant an Interest, Permit or License in FDFN Lands. The types of Interests, Permits and Licenses that will be recognized shall include, but are not limited to:
- a. Pre-Existing Interest – are current valid Leases, Permits or Licenses registered in the Indian Lands Registry System as of October 6, 2013; these interests shall remain in place until cancelled, expired, or relinquished;
  - b. Newly Granted Interest – are Leases, Permits or Licenses granted and documented by entering into an agreement with FDFN or any FDFN business entity after October 7, 2013 and will remain in effect until the term expires, is assigned to another party, is relinquished, or cancelled.

New Granted Allocation

- 4.2 Any newly granted interests must be a registered instrument, in the FDFN Land Registry and the First Nations Land Registry System, in order for FDFN Members, and/ or non-Members, to have their Interest in FDFN Land deemed effective.

Approval by Quorum of Council

- 5.3 Subject to subsection 12.1 and subsection 18.4 of the Land Code, all granting of Interests, Permits or Licenses shall be by Land Resolution signed by a quorum of Council.

Execution of Land Transactions

- 5.4 The land transaction agreements shall be executed by the applicant; and, either Chief and Council or any FDFN business entity with whom the applicant has made an agreement.

Additional Lands

- 5.5 Any additional lands to be included as FDFN Land and managed under the FDFN Land Code shall require a Band Council Resolution from Council certifying community acceptance of a satisfactory environmental site inspection.

Voting Results Required For

- 5.6 Any land transactions such as land exchanges and expropriations shall require that results of a successful ratification vote accompany any documentation that will be sent to the FDFN Land Registry and Council shall formalize the results of the ratification vote by signing a Band Council Resolution.

No Granting

- 5.7 No Interest, Permit or License shall be granted where a previous Interest, Permit or License exists by a Pre-Existing Interest.

Prior Interest

- 5.8 Where a Pre-Existing Interest is discovered subsequent to the granting of a new Interest, Permit or License, then the new Interest, Permit or License shall be void ab initio upon proof of the prior allocation.

Liability

- 5.9 The Lands and Resources Commission and/or Council shall not be liable for any errors or omissions with respect to the granting or voiding of Interests, Permits or Licenses including circumstances arising under Section 5.7.

May Prohibit

- 5.10 Council may prohibit the awarding, granting, transferring or assigning of specific rights or Interest in Land to certain categories set out in this Section if:
- a. it is not in the best interest of FDFN;

## **7. REGISTRATION**

### Registry System

- 7.1 The Lands and Resource Commission shall register transactions with the First Nation Lands Registry System in accordance with the FDFN Land Code Section 28.

### Requirements

- 7.2 Three (3) original documents are required to be executed by the parties. The distribution of the documents is as follows:
- a. Interest/Permit/License holder;
  - b. FDFN Land Registry; and
  - c. First Nation Land Registry System.

## **8. REGULATIONS**

### May Make Regulations

- 8.1 The Lands and Resource Commission may make regulations under this Land Law to further enhance this Land Law.

### Interim Use

- 8.2 In the Interim, the Lands and Resource Commission shall utilize processes or policies which have been approved by Chief and Council, prior to the Land Code coming into effect for the management of FDFN Lands. These processes or policy will remain in effect until such time as regulations are made under this Land Law and are adopted by Chief and Council.

### Copies of Regulations

- 8.3 A true copy of all regulations, policies and procedures shall be maintained at the FDFN Administrative office and the Lands Department.

### Notice to be Given

- 8.4 All Interest, Permit or License holders shall be given notice of any approved and adopted regulations under this Land Law; and, if the Interest, Permit or License holder requests a copy of the regulations, they can obtain a copy at a reasonable fee approved by the FDFN; or, they can view the regulations by attending the Lands Department.

## **12. AMENDMENTS**

### Requirements

12.1 This Land Law may be amended by Chief and Council in the following manner:

- a. A recommendation from the Lands and Resource Commission, supporting or requesting the amendment;
- b. Where the proposed amendment is substantial in nature, it may be referred to a community meeting for input;
- c. Where an amendment is technical in nature or where urgent or following community input may be enacted by a written Resolution of Chief and Council;

### Notice of Amendment

12.2 A notice of amendments shall be publicly posted and such reasonable efforts as the Lands and Resource Commission deems necessary will be undertaken to provide notice to individuals off reserve.