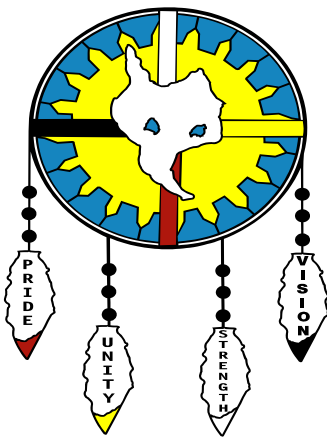


# Beausoleil First Nation



## Land Acquisition Policy & Procedure Manual

Version: 25 November 2008

*Land Acquisition Policy and Procedures Manual*

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## **SECTION I      INTRODUCTION**

The Keepers of Our Sacred Lands Committee have developed this policy and procedure manual for the use and benefit of each member of the Beausoleil First Nation.

### **A. PURPOSE**

To provide equitable procedures for community members to acquire, transfer, and exchange land from Beausoleil First Nation.

### **B. ROLES AND RESPONSIBILITIES**

#### **1. Chief and Council**

- 1-a)** \_\_\_\_\_ Shall have the ultimate authority for the Beausoleil First Nation Lands;
- 2-b)** \_\_\_\_\_ Shall meet as required to review the recommendations made by the Keepers of Our Sacred Lands;
- 3-c)** \_\_\_\_\_ Shall provide direction to the Lands Management Program Staff.

#### **2. The Keepers of Our Sacred Lands (KOOSL) Committee**

- a) Shall meet as required to review applications;
- b) Shall make recommendations to Chief and Council.

#### **3. Lands Management Program Staff**

- a) Shall meet and consult with all applicants to ensure that all applicants clearly understand the land acquisition process;
- b) Shall complete all related documentation;
- c) Shall receive direction from Chief and Council.

### **C. REVIEW AND AMENDMENT**

- i.1.** At least once every five (5) years, KOOSL with the assistance of the Lands Management Program staff, shall review this Lands Acquisition Policy and Procedure Manual to ensure that it is accommodating the needs of the people.
- ii.2.** As part of the review, Beausoleil First Nation members shall also be consulted regarding any issues or suggestions for improvement to this policy.
- iii.3.** At least one meeting with Chief and Council shall be had regarding the results of the review.
- iv.4.** Final amendments will be reviewed and ratified in a community meeting by Beausoleil First Nation membership.

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## **SECTION II      DEFINITIONS**

**Administration Fee** – means a non-refundable fee of twenty-five (\$25.00) dollars.

**Applicant** – means a Beausoleil First Nation member who is age 18 or over.

**Associational** – means fellowship or participation in the same group, organisation, or institution.

**Band Allotment** – means a piece of land allotted to a band member by Band Council Resolution.

**Band Member** – means a person whose name appears on the Band List or who is entitled to have his/her name appear on the Band List.

**Band Land** – means reserve land held in common under the control of the First Nation Chief and Council.

**Certificate of Possession** – means a document which indicates ownership of the land described therein.

**Development Plan** – means a site plan sketch, to scale, of the property showing all existing features, and all buildings, works, and improvements to be undertaken.

**Environmental Screening Report** – means the INAC document which outlines anticipated environmental impacts, and any needed mitigation, remediation, or restoration measures of the proposed development.

**Immediate Family** – means a person's parent, spouse, child, brother, sister, half-brother, or half-sister.

**Keepers of Our Sacred Lands** – ("KOOSL") means the community-based committee established to review all land issues and to make recommendations to Chief and Council.

**Lease Agreement** – means a five-year arrangement between the applicant and the Beausoleil First Nation authorizing the applicant to use specific band land for business/commercial purposes.

**Letter of Opinion** – means a document provided by a real estate agent or land appraiser which indicates the value of the property.

**Notice of Intent** – means document provided by an applicant indicating their desire to exchange their property for band land.

**Official** – means a member of Chief and Council, a member of a Committee of Council, or a program staff member.

**Monetary** – means a business investor, owner, employee, or competitor.

**Quorum** – means 50% of the total number of committee members, plus one additional member of the committee.

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**Unencumbered Band Land** – means land that is not utilized or assigned for a specific purpose.

## **SECTION III BUSINESS/COMMERCIAL PURPOSES**

### **A. GENERAL**

A band member may request band land for Business/Commercial purposes. Land may be made available under a commercial lease agreement for this purpose. For greater certainty, such land will remain Band Land.

### **B. POLICY**

1. An applicant requesting the use of band land for Business/Commercial purposes must be a member of Beausoleil First Nation and have attained the age of eighteen (18) years old.
2. An applicant must have resided on reserve for a minimum of two years prior to the date of an application submission.
3. Ownership of leased band land will remain vested with the Beausoleil First Nation.
4. An applicant is required to complete ***Application Form A-1, "Application to Lease Band Land for Business/Commercial Purposes."*** and submit it to KOOSL.
5. An applicant is required to complete an Environmental Screening Report as per INAC guidelines and requirements.
6. An applicant will submit a Development Plan indicating where the proposed business will be located.
7. An applicant will submit a Business Plan.
8. Upon approval of an application, the applicant shall enter into a leasing agreement with the Beausoleil First Nation and pay all applicable leasing fees. The leasing agreement will be five years in length. Upon expiration of this lease agreement, the opportunity exists to reapply for an extension or a new lease agreement.
9. The signed original lease agreement will be held by the First Nation and kept on file with the Beausoleil First Nation Lands Management Program. A copy will be provided to the Lessee.
10. The applicant will comply with all applicable laws, by-laws, policies, and regulations of the Beausoleil First Nation.
11. The Chief and Council's decision is final.
12. Beausoleil First Nation shall give notice of a discontinuance of a lease agreement. Should the applicant fail to re-apply for an extension or new lease agreement, and has not made any demonstrated effort to do so, any buildings or improvements on the land shall become the property of the Beausoleil First Nation.

13. In order to fully remove all improvements to the satisfaction of the First Nation, additional time may be granted to the Lessee.
14. If an applicant is unsuccessful in their application to lease Band Land for Business/Commercial purposes, the applicant is not prohibited from submitting subsequent applications. There is a two-month waiting period for the submission of new applications from the date of an unsuccessful application.

## **C. PROCEDURE**

### **1. Applicant**

- a)** The applicant must submit, to the secretary of KOOSL, a complete application package, which includes the following:
  - i) Form A-1 entitled "Application to Lease Band Land for Business/Commercial Purposes";
  - ii) Environmental Screening Report;
  - iii) Development Plan;
  - iv) Business Plan.
- b)** The Business Plan will provide, at a minimum, the following information:
  - i) nature of business, e.g., mission, goals, objectives, goods/services offered, etc.
  - ii) ownership/partnerships
  - iii) funding sources, including income statement, balance sheet, break/even analysis, etc.
  - iv) all other relevant information that would enhance the application, e.g., market survey & strategy, training & experience, etc.
- c)** The applicant shall be required to pay the applicable administration fee.
- d)** The applicant is entitled to attend the public portion of the meeting of the KOOSL to present their business proposal.
- e)** The applicant is entitled to attend the meeting of Chief and Council in which the recommendations of KOOSL are reviewed and the final decision of Chief and Council is rendered.
- f)** Upon Sixty (60) days prior to the expiration of the lease agreement, it is the responsibility of the applicant to:
  - i) re-apply for an extension or,
  - ii) apply for a new lease agreement.

- g)** Failure to re-apply for an extension, or apply for a new lease, will result in punitive action, such as total reversion of buildings or improvements remaining on the Band Land of this lease to the Beausoleil First Nation, once the lease has expired.
- h)** In order to fully remove all improvements to the satisfaction of the First Nation, an additional 30 days may be granted to the Lessee.

## **2. Keepers Of Our Sacred Lands (KOOSL) Committee**

- a)** The secretary will accept the application and business plan of behalf of the committee. Should the secretary of KOOSL be unavailable, the staff of the Beausoleil First Nation Land Management Department will accept the application and business plan on behalf of the committee.
- i)b)** \_\_\_\_\_ The secretary will create a file and issue a file number for the application and related documents.
- j)c)** \_\_\_\_\_ The secretary will accept the administration fee and issue a receipt to the applicant.
- k)d)** \_\_\_\_\_ If the administration fee does not accompany the application, the application will be returned to the applicant. The applicant may resubmit the application upon payment of the administration fee.
- l)e)** \_\_\_\_\_ KOOSL will, within sixty (60) days, review the application together with all supporting documentation and submit their recommendations to Chief and Council, or in the event that any deficiencies to the application are noted, the application will be returned to the applicant to remedy the deficiencies.
- m)f)** \_\_\_\_\_ In circumstances where a conflict of interest occurs, Section VII –Conflict of Interest will apply.

## **3. Chief And Council**

- a)** Chief and Council will review, within sixty (60) days, the completed application package, and consider the recommendations of KOOSL.
- n)b)** \_\_\_\_\_ Based on the merits of the application, Chief and Council will:
  - i) approve it,
  - ii) deny it,
  - iii) defer it for further consideration.

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- ⓐ) Chief and Council will direct the Lands Management Program Staff to prepare the appropriate documentation.

**4. Lands Management Program Staff**

- a) Upon approval or disapproval of applicant's application, the Lands Management Program Staff will notify the applicant in writing within seven (7) days of the decision of Chief and Council.
- b) The Lands Management Program Staff will draft a Commercial/Business lease agreement, not to exceed five years in length. The lease will include a requirement for annual review of the lease agreement and the business plan.
- c) The Lands Management Program Staff will carry out an annual review and report its findings to Chief and Council.
- d) The Lands Management Program Staff will meet with the applicant to discuss and advise the applicant of the terms and conditions of the Commercial/Business leasing agreement.
- e) The Lands Program Management Staff will ensure that the Commercial/Business Leasing Agreement is signed by the applicant(s) and will sign on behalf of Beausoleil First Nation Chief and Council.
- f) Ninety (90) days prior to the expiration of the lease agreement, the Lands Management Program Staff will notify the Lessee and KOOSL in writing of the impending expiry.

## **SECTION IV      LAND EXCHANGES**

### **A. GENERAL**

A Band Member may approach Chief and Council to exchange their land for Band Land. Where it is in the best interest of the First Nation as a whole, this may occur. Only where the applicant can demonstrate a requirement for the land will this be considered. This section of the Policy and Procedure Manual deals only with land exchanges between Band Member(s) and the Beausoleil First Nation. Land Transfers between Band Member to Band Member do not form a part of this policy.

### **B. POLICY**

1. The applicant must own the property he/she wants to exchange as evidenced by a Certificate of Possession.
2. An applicant will be required to complete **Form B-1 "Application to Exchange Land for Band Land"** and submit it to KOOSL.
3. The land may be deemed not suitable for building if one or more of the following apply:
  - I.a) not serviced by water and hydro lines;
  - II.b) inaccessible by road;
  - III.c) terrain is swampy, rocky, too rugged;
  - IV.d) too close to shoreline;
  - V.e) environmentally or archaeologically sensitive
  - VI.f) multiple ownership without mutual agreement on development proposal.
4. The applicant is required at his/her own cost to obtain a valid letter of opinion or related land valuation from an accredited Land Appraiser/ Real Estate Agent for his/her property.
5. Unless otherwise agreed, both properties should be of equal value, with available resources being taken into consideration, as evidenced by the letter of opinion.
6. Unless otherwise agreed, both properties being exchanged should be accessible by road.
7. An applicant is required to complete an Environmental Screening Report on his or her land as per INAC guidelines and requirements.
8. An applicant will submit a Development Plan.
9. Prior to the approval of the land exchange, the First Nation is also required to complete an Environmental Screening Report on the proposed lot for exchange.

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10. Both properties should be serviceable building lots, i.e. hydro and water lines. If the property the applicant proposes to exchange is not serviceable, it is the sole responsibility of the applicant to assume all costs to bring his/her property to serviceability if required.
11. If only a portion of the applicant's property is being exchanged for band land, the applicant must ensure that the portion being severed is legally surveyed by an accredited Canada Lands Surveyor. The burden of all survey costs remains with the applicant.
12. Following the initial review of an application by KOOSL, an applicant will be required to post a Notice of Intent detailing which property he/she is proposing to exchange and for which band land he/she is requesting in exchange from Beausoleil First Nation.

**C. PROCEDURE**

**1. Applicant**

a) The applicant must submit, to the secretary of KOOSL, a complete application package, which includes the following:

- i) Form B-1 entitled "Application to Exchange Land for Band Land";
- ii) Letter of Opinion;
- iii) Environmental Screening Report;
- iv) Development Plan;
- v) Plan of Survey, if applicable

**g)b)** The applicant shall be required to pay the applicable administration fee.

**h)c)** Once the applicant has been issued receipt for the administration fee, the applicant will be required to post a Notice of Intent for thirty (30) days. The Notice of Intent shall:

- i) be posted at the Band Office;
- ii) be posted in two other prominent public places;
- iii) detail which property the applicant is proposing to exchange and for which band land he/she is requesting in exchange from Beausoleil First Nation;
- iv) explain that objections are to be directed in writing to KOOSL.

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**i)d)** \_\_\_\_\_ If an applicant is applying to exchange only a portion of his/her property, the applicant must have the property legally surveyed by an accredited Canada Lands Surveyor. The burden of all surveys costs remain with the applicant.

**j)e)** \_\_\_\_\_ The applicant is entitled to attend the public portion of the meeting of the KOOSL to present their exchange proposal.

**k)f)** \_\_\_\_\_ The applicant is entitled to attend the meeting of Chief and Council in which the recommendations of KOOSL are reviewed and the final decision of Chief and Council is rendered.

## **2. Keepers Of Our Sacred Lands (KOOSL) Committee**

**a)** The secretary of the KOOSL will accept the application and Letter of Opinion on behalf of the Committee. Should the secretary of KOOSL be unavailable, the staff of the Beausoleil First Nation Lands Management Department will accept the application.

**l)b)** \_\_\_\_\_ The secretary will create a file and issue a file number for the application and related documents.

**m)c)** \_\_\_\_\_ The secretary will accept the administration fee and issue a receipt to the applicant.

**n)d)** \_\_\_\_\_ If the administration fee does not accompany the application, the application will be returned to the applicant. The applicant may resubmit the application upon payment of the administration fee.

**o)e)** \_\_\_\_\_ A Notice of Intent will be posted for period of thirty (30) days for public viewing, within such time any written objections to the application for exchange will be accepted by KOOSL.

**p)f)** \_\_\_\_\_ KOOSL will review, within sixty (60) days, the application together with all supporting documentation and submit their recommendations to Chief and Council, or in the event that any deficiencies to the application are noted, the application will be returned to the applicant to remedy the deficiencies.

**q)g)** \_\_\_\_\_ In circumstances where a conflict of interest occurs, Section VII –Conflict of Interest will apply.

## **3. Chief And Council**

**a)** Chief and Council will review, within sixty (60) days, the completed application package, the recommendations of

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KOOSL, and any objections which resulted from the posting of the Notice of Intent.

f)b) Based on the merits of the application, Chief and Council will:

- i) approve it,
- ii) deny it,
- iii) defer it for further consideration.

s)c) Chief and Council will direct the Lands Management Program Staff to prepare the appropriate documentation.

**4. Lands Management Program Staff**

a) Upon approval or disapproval of applicant's application the Lands Management Program Staff will notify the applicant in writing within seven (7) days of the decision of Chief and Council.

t)b) Upon approval Chief and Council, the Lands Management Program Staff will draft the Land Transfer forms authorizing the transfer of the applicant's property to the Beausoleil First Nation and will draft the Band Council Resolution allotting the band land which is subject to the exchange.

u)c) No transfer will take place without proof of transfer of the Certificate of Possession and without full disclosure to the property owner.

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## **SECTION V      HOUSING PURPOSES**

### **A. GENERAL**

Subject to the Beausoleil First Nation Housing Policy and Procedures, Band land may be allotted to individual Band members for housing purposes. Applicants may be approved for a Capital Housing Unit, have secured financing through a private leaning institution, or have personal financing. Without limiting the generality of the Housing Policy, the band land will only be transferred to a band member when the mortgage has been paid in full.

### **B. "SQUATTER'S RIGHTS"**

**The Beausoleil First Nation Chief and Council does not recognize "Squatter's Rights"**. Unauthorized use of band land will not be tolerated. Any and all improvements will be removed at the offender's expense.

### **C. POLICY - APPLICANT APPROVED FOR CAPITAL HOUSING UNIT**

#### **1. Applicant Owns Land that is Suitable for Building**

a) The applicant shall build on that lot and is not eligible for an additional band lot on which to build a housing unit.

v)b) \_\_\_\_\_ For mortgage purposes

- i) the land must be deemed unencumbered band land.
- ii) therefore upon approval of application, the applicant is required to sign a land transfer of the Certificate of Possession to the Beausoleil First Nation.
- iii) the Land Transfer forms must be signed before any construction is to commence.
- iv) only when the mortgage has been paid in full, will a Band Allotment be issued to the applicant.

w)c) \_\_\_\_\_ An applicant is required to complete an Environmental Screening Report as per INAC guidelines and requirements prior to construction.

x)d) \_\_\_\_\_ An applicant will submit a Development Plan indicating where the proposed House/Dwelling will be located prior to construction.

#### **2. Applicant Owns Land Which Is Not Suitable For Building**

a) The applicant may participate in a Land Exchange with the Beausoleil First Nation (Please refer to Section IV – Land Exchanges of this Policy and Procedure Manual).

y)b) \_\_\_\_\_ The land may be deemed not suitable for building if one or more of the following apply:

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- i) not serviced by water and hydro lines;
- ii) inaccessible by road;
- iii) terrain is swampy, rocky, too rugged;
- iv) too close to shoreline;
- v) environmentally or archaeologically sensitive;
- vi) multiple ownership without mutual agreement on development proposal.

**z)c)** For mortgage purposes,

- i) the land must be deemed unencumbered band land;
- ii) therefore upon approval of application, and once all documentation is complete and signed as per Section IV – Land Exchange, the applicant is required to sign a land transfer of the Certificate of Possession to the Beausoleil First Nation;
- iii) the Land Transfer forms must be signed before any construction is to commence;
- iv) only when the mortgage has been paid in full, will a Band Allotment be issued to the applicant.

**aa)d)** An applicant is required to complete an Environmental Screening Report as per INAC guidelines and requirements prior to construction.

**bb)e)** An applicant will submit a Development Plan indicating where the proposed House/Dwelling will be located prior to construction.

**3. Applicant Does Not Own Land**

**a)** The applicant will be required to complete *Form C-1, "Application to Acquire Land for Housing Purposes."*, and submit it to KOOSL.

**cc)b)** If the land requested by the applicant is not legally surveyed, a survey will be a condition of approval. It is the responsibility of the applicant to assume all costs associated with having the property surveyed. These may be paid directly by the applicant, or applied to any mortgage balance owing.

**dd)c)** The applicant is required to purchase the lot at the set standard building lot rates. This cost may be paid in full or by instalments.

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**ee)d)** The applicant may be provided Temporary Possession once approval of application is granted by Chief and Council.

**ff)e)** Temporary Possession will outline Terms and Conditions as set forth by Chief and Council.

**gg)f)** The applicant will adhere to all Terms and Conditions of the Temporary Possession.

**hh)g)** The land will remain band land until the lot purchase fee and any mortgage is paid in full.

**ii)h)** Standard building lots shall have the following dimensions: 150' frontage by 300-350' depth.

**jj)i)** Only when the mortgage has been paid in full, will a Band Allotment be issued to the applicant.

**kk)j)** An applicant is required to complete an Environmental Screening Report as per INAC guidelines and requirements prior to construction.

**ll)k)** An applicant will submit a Development Plan indicating where the proposed House/Dwelling will be located prior to construction.

**D. POLICY - APPLICANT HAS SECURED FINANCING THROUGH A LENDING INSTITUTION (BANK, LOAN COMPANY, ETC.)**

**1. Applicant Owns Land that is Suitable for Building**

**a)** The applicant shall build on that lot and is not eligible for an additional band lot on which to build a housing unit.

**mm)b)** For mortgage purposes

- i) the land must be deemed unencumbered band land.
- ii) therefore upon approval of application, the applicant is required to sign a land transfer of the Certificate of Possession to the Beausoleil First Nation.
- iii) the Land Transfer forms must be signed before any construction is to commence.
- iv) only when the mortgage has been paid in full, will a Band Allotment be issued to the applicant.

**nn)c)** An applicant is required to complete an Environmental Screening Report as per INAC guidelines and requirements prior to construction.

**oo)d)** An applicant will submit a Development Plan indicating where the proposed House/Dwelling will be located prior to construction.

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## 2. Applicant Owns Land Which Is Not Suitable For Building

a) The applicant may participate in a Land Exchange with the Beausoleil First Nation (Please refer to Section IV – Land Exchanges of this Policy and Procedure Manual).

~~pp)b~~ b) The land may be deemed not suitable for building if one or more of the following apply:

- i) not serviced by water and hydro lines;
- ii) inaccessible by road;
- iii) terrain is swampy, rocky, too rugged;
- iv) too close to shoreline;
- v) environmentally or archaeologically sensitive;
- vi) multiple ownership without mutual agreement on development proposal

~~qq)c~~ c) For mortgage purposes,

- i) the land must be deemed unencumbered band land;
- ii) therefore upon approval of application, and once all documentation is complete and signed as per Section IV – Land Exchange, the applicant is required to sign a land transfer of the Certificate of Possession to the Beausoleil First Nation;
- iii) the Land Transfer forms must be signed before any construction is to commence;
- iv) only when the mortgage has been paid in full, will a Band Allotment be issued to the applicant

~~rr)d~~ d) An applicant is required to complete an Environmental Screening Report as per INAC guidelines and requirements prior to construction.

~~ss)e~~ e) An applicant will submit a Development Plan indicating where the proposed House/Dwelling will be located prior to construction.

## 3. Applicant Does Not Own Land

a) The applicant will be required to complete *Form C-1, "Application to Acquire Land for Housing Purposes."*, and submit it to KOOSL.

~~tt)b~~ b) If the land requested by the applicant is not legally surveyed, a survey will be a condition of approval. It is the responsibility of the applicant to assume all costs associated with having the property surveyed. These may be paid

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directly by the applicant, or applied to any mortgage balance owing.

**uu)c)** The applicant is required to purchase the lot at the set standard building lot rates. This cost may be paid in full or by instalments.

**vv)d)** The applicant may be provided Temporary Possession once approval of application is granted by Chief and Council.

**ww)e)** Temporary Possession will outline Terms and Conditions as set forth by Chief and Council.

**xx)f)** The applicant will adhere to all Terms and Conditions of the Temporary Possession.

**yy)g)** The land will remain band land until the lot purchase fee and any mortgage is paid in full.

**zz)h)** Standard building lots shall have the following dimensions: 150' frontage by 300-350' depth.

**aaa)i)** Only when the mortgage has been paid in full will a Band Allotment be issued to the applicant.

**bbb)j)** An applicant is required to complete an Environmental Screening Report as per INAC guidelines and requirements prior to construction.

**ccc)k)** An applicant will submit a Development Plan indicating where the proposed House/Dwelling will be located prior to construction.

## **E. POLICY - APPLICANT HAS PERSONAL RESOURCES**

### **1. Applicant Owns Land that is Suitable for Building**

- a) The applicant shall build on that lot and is not eligible for an additional band lot on which to build a housing unit.
- b) An applicant is required to complete an Environmental Screening Report as per INAC guidelines and requirements prior to construction.
- c) An applicant will submit a Development Plan indicating where the proposed House/Dwelling will be located prior to construction.

### **2. Applicant Owns Land Which Is Not Suitable For Building**

- a) The applicant may participate in a Land Exchange with the Beausoleil First Nation (Please refer to Section IV – Land Exchanges of this Policy and Procedure Manual).

- b)** The land may be deemed not suitable for building if one or more of the following apply:
  - i) not serviced by water and hydro lines;
  - ii) inaccessible by road;
  - iii) terrain is swampy, rocky, too rugged;
  - iv) too close to shoreline;
  - v) environmentally or archaeologically sensitive.
  - vi) multiple ownership without mutual agreement on development proposal.
- c)** An applicant is required to complete an Environmental Screening Report as per INAC guidelines and requirements prior to construction.
- d)** An applicant will submit a Development Plan indicating where the proposed House/Dwelling will be located prior to construction.

### **3. Applicant Does Not Own Land**

- a)** The applicant will be required to complete *Form C-1, "Application to Acquire Land for Housing Purposes."*, and submit it to KOOSL.
- b)** If the land requested by the applicant is not legally surveyed, a survey will be a condition of approval. It is the responsibility of the applicant to assume all costs associated with having the property surveyed. These may be paid directly by the applicant, or applied to any mortgage balance owing.
- c)** The applicant is required to purchase the lot at the set standard building lot rates. This cost may be paid in full or by instalments.
- d)** The applicant may be provided Temporary Possession once approval of application is granted by Chief and Council.
- e)** Temporary Possession will outline Terms and Conditions as set forth by Chief and Council.
- f)** The applicant will adhere to all Terms and Conditions of the Temporary Possession.
- g)** The land will remain band land until the lot purchase fee is paid in full.
- h)** Standard building lots shall have the following dimensions: 150' frontage by 300-350' depth.

- i) Only when the mortgage has been paid in full, will a Band Allotment be issued to the applicant.
- j) An applicant is required to complete an Environmental Screening Report as per INAC guidelines and requirements prior to construction.
- k) An applicant will submit a Development Plan indicating where the proposed House/Dwelling will be located prior to construction.

## F. PROCEDURE

### 1. Applicant

- a) The applicant must submit, to the secretary of KOOSL, a complete application package, which shall include:
  - i) Environmental Screening Report, and
  - ii) Development Plan, and
  - iii) Form B-1 entitled "Application to Exchange Land for Band Land", and associated documents, or
  - iv) Form C-1 entitled "Application to Acquire Land for Housing Purposes", and a plan of survey, if applicable.

**b)** The applicant shall be required to pay the applicable administration fee.

### 2. Keepers Of Our Sacred Lands (KOOSL) Committee

- a) The secretary of KOOSL will accept the application on behalf of the Committee.
- b)** The secretary will create a new file and will assign a file number for the application and related documents.
- c)** The secretary will accept the administration fee and issue a receipt to the applicant.
- d)** If the administration fee does not accompany the application, the application will be returned to the applicant. The applicant may resubmit the application upon payment of the administration fee.
- e)** The secretary will include this item on the next agenda for the next scheduled meeting of the KOOSL.
- f)** In circumstances where a conflict of interest occurs, Section VII –Conflict of Interest will apply.
- g)** KOOSL will review the application together with all supporting documentation and submit their recommendations to Chief and Council, or in the event that any deficiencies to

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the application are noted, the application will be returned to the applicant to remedy the deficiencies.

s)h) \_\_\_\_\_ A representative of KOOSL will present its recommendation with the application to Chief and Council.

**4. Chief And Council**

a) Chief and Council will review, within sixty (60) days, the completed application package, and consider the recommendations of KOOSL.

b) Based on the merits of the application, Chief and Council will:

- i) approve it,
- ii) deny it,
- iii) defer it for further consideration.

c) Chief and Council will direct the Lands Management Program Staff to prepare the appropriate documentation.

**5. Lands Management Program Staff**

a) Upon approval of an applicant's application, the Lands Program Management Staff will notify the applicant in writing within seven (7) days of the decision of Chief and Council.

b) If applicable, the Lands Management Program Staff will draft the Land Transfer forms for the applicant to sign to the Beausoleil First Nation, and will draft the Band Council Resolution allotting the property which was subject to trade.

## **SECTION VI      EXPROPRIATION**

### **A. GENERAL**

Chief and Council may approach a Band Member to exchange their land for Band Land, and/or for cash in-lieu of land. Where it is in the best interest of the First Nation as a whole, this may occur. Only where there is a demonstrated community requirement for the land will this be considered.

### **B. POLICY**

1. The First Nation will be required to complete ***Form D-1, "Application to Expropriate Land for Band Purposes"*** and to submit completed application to KOOSL.
2. The Chief and Council must demonstrate the need to acquire the land in question, in a community meeting called for that purpose.
3. The discussion must include alternative properties that might be expropriated instead, and alternatives to the proposal that do not require the expropriation of land.
4. The First Nation is required to obtain a valid letter of opinion or related land valuation from an accredited Land Appraiser/Real Estate Agent for the property proposed for expropriation and, if applicable, the land to be exchanged.
5. If applicable, both properties should be of equal value, based on the letter of opinion.
6. Unless otherwise agreed, both properties being exchanged should be accessible by road.
7. The First Nation is required to complete an Environmental Screening Report on the property proposed for expropriation and, if applicable, the land to be given in exchange, as per INAC guidelines and requirements.
8. The First Nation will submit a Development Plan for community review, indicating where the proposed use will be located.
9. If the property the First Nation proposes to exchange is not serviceable, the First Nation will bring that property to the same level of serviceability as the property being expropriated (e.g., roads, water, hydro, etc.).
10. If only a portion of property is being expropriated, the First Nation must ensure that the portion being severed is legally surveyed by an accredited Canada Lands Surveyor.

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11. Following the initial review of an application by KOOSL, the First Nation will be required to post a Notice of Intent detailing which property they are proposing to expropriate and, if applicable, which property they are proposing to exchange for it.

## C. PROCEDURE

### 1. Applicant

a) The First Nation must complete and submit to KOOSL, Form D-1 entitled "Application to Expropriate Land for Band Purposes", and the requisite Letter of Opinion.

e)b) The First Nation shall be required to pay the applicable administration fee.

d)c) Once the First Nation has been issued receipt for the administration fee, the First Nation will be required to post a Notice of Intent for thirty (30) days. The Notice of Intent shall:

- i) be posted at the Band Office;
- ii) be posted in two other prominent public places;
- iii) detail which property Beausoleil First Nation is proposing to expropriate and, if applicable, which property they are proposing to exchange for it;
- iv) explain that objections are to be directed in writing to KOOSL.

e)d) If the First Nation is applying to expropriate only a portion of a Band Member's property, the First Nation must have the property legally surveyed by an accredited Canada Lands Surveyor, and bear all survey costs.

f)e) A Development Plan will accompany the application.

g)f) The member whose land is proposed for expropriation is entitled to attend the public portion of the meeting of the KOOSL dealing with the exchange proposal.

h)g) The member whose land is proposed for expropriation is entitled to attend the meeting of Chief and Council in which the recommendations of KOOSL are reviewed and the final decision of Chief and Council is rendered.

### 2. Keepers Of Our Sacred Lands (KOOSL) Committee

a) The secretary of the KOOSL will accept the application and Letter of Opinion on behalf of the Committee. Should the secretary of KOOSL be unavailable, the staff of the Beausoleil First Nation Lands Management Department will accept the application.

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- i)b) \_\_\_\_\_ The secretary will create a file and issue a file number for the application and related documents.
- j)c) \_\_\_\_\_ The secretary will accept the administration fee and issue a receipt to the First Nation.
- k)d) \_\_\_\_\_ If the administration fee does not accompany the application, the application will be returned to the First Nation. They may resubmit the application upon payment of the administration fee.
- l)e) \_\_\_\_\_ A Notice of Intent will be posted for period of thirty (30) days for public viewing, within such time any objections to the application for expropriation will be directed in writing to KOOSL.
- m)f) \_\_\_\_\_ KOOSL will review the application together with all supporting documentation and submit their recommendations to Chief and Council, or in the event that any deficiencies to the application are noted, the application will be returned to Chief and Council to remedy the deficiencies.
- n)g) \_\_\_\_\_ In circumstances where a conflict of interest occurs, Section VII –Conflict of Interest will apply.

### 3. Chief And Council

- a) Chief and Council will review, within sixty (60) days, the completed application package, consider the recommendations of KOOSL, and any objections which resulted from the posting of the Notice of Intent.
- o)b) \_\_\_\_\_ Based on the merits of the application, Chief and Council will:
  - i) approve it,
  - ii) deny it,
  - iii) defer it for further consideration.
- p)c) \_\_\_\_\_ Chief and Council will direct the Lands Management Program Staff to prepare the appropriate documentation.

### 4. Lands Management Program Staff

- a) Upon approval or disapproval of an application, the Lands Management Program Staff will notify the member, whose land is proposed for expropriation, in writing.
- q)b) \_\_\_\_\_ Upon approval by Chief and Council, the Lands Management Program Staff will, if applicable, draft the Land Transfer forms authorizing the transfer of the applicant's property to the Beausoleil First Nation and will draft the Band

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Council Resolution allotting the band land which is subject to the exchange.

f)c) \_\_\_\_\_ No transfer will take place without proof of transfer of the Certificate of Possession and without full disclosure to the property owner.

## **SECTION VII      CONFLICT OF INTEREST**

### **A. GENERAL**

From time to time, an official may find themselves in a direct relationship with an applicant. In circumstances where this relationship creates a conflict of interest, whether it is real or perceived, it shall be necessary that the official remove themselves from the decision making process.

### **B. POLICY**

**SECTION VIII1.** A conflict of interest can only arise if an official is in a position to influence or make a decision about an application.

**SECTION IX2.** A conflict of interest may arise if an official has a direct relationship with the applicant, that is:

**SECTION IIa)** existing, or

**SECTION IIIb)** will exist in the foreseeable future.

**SECTION X3.** A conflict of interest exists when the relationship between the official and the applicant is:

**SECTION IIa)** immediate family and/or;

**SECTION IIIb)** monetary and/or;

**SECTION IVc)** associational.

**SECTION XI4.** When an official finds themselves in a conflict of interest, they will:

**SECTION Va)** declare the nature of the conflict for record in the minutes;

**SECTION VIb)** physically remove themselves from any discussion of the application;

**SECTION VIIc)** refuse to receive or work on any files, notes, etc. regarding the application;

**SECTION VIIId)** not participate in any decision regarding the application.

**SECTION XII5.** An accusation against an official of not removing themselves from an application while in a conflict of interest, shall be made in writing, signed, and delivered to the secretary of KOOSL, or the chairman of KOOSL, or Band Administrator, or Chief, as appropriate. If the KOOSL or Chief and Council cannot resolve the matter it will be sent to the Dispute Resolution Tribunal.

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**SECTION VIII KOOSL TERMS OF REFERENCE**

**A. MISSION STATEMENT**

The Keepers of Our Sacred Lands (KOOSL) are committed to developing an equitable procedure for Chief and Council for utilizing and acquiring band land, and in doing so will maintain the respect and dignity that each First Nation member so rightly deserves, for this generation and future generations.

**B. POLICY**

1. The KOOSL Committee shall meet as required to review applications and to make recommendations to Chief and Council.
2. The KOOSL Committee is not a decision making body, and will only submit recommendations to Chief and Council.