

WEI WAI KUM
LAND ALLOTMENT LAW

June 5, 2014

WHEREAS Wei Wai Kum (also known as Campbell River Indian Band, or CRIB) has an inherent right to self-government which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;

AND Wei Wai Kum has taken control of Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Wei Wai Kum Land Code* effective the 31st day of January, 2013;

AND under the *Wei Wai Kum Land Code*, Wei Wai Kum Council is authorized to pass various laws relating to lands including laws relating to creation, regulation and prohibition of interests in lands under section 6 of the Land Code;

AND Wei Wai Kum has outstanding housing issues to deal with including past agreements which may create commitments to provide allotments or Certificates of Possession (“CPs”) to Wei Wai Kum members who have paid out their mortgages;

AND Wei Wai Kum Council believe it is in the interests of the social, economic and community development of Wei Wai Kum to continue to provide Allotments and CPs for Members in appropriate circumstances but wish to ensure that the process is fair and transparent and follows clear policies and criteria;

NOW THEREFORE, THIS WEI WAI KUM INTERIM LAND ALLOTMENT LAW, 2014 IS HEREBY ENACTED A LAW OF WEI WAI KUM.

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1. TITLE

1.1 This Law may be cited as the "*Wei Wai Kum Land Allotment Law, 2014*".

2. DEFINITIONS

2.1 For the purposes of this Law, terms have the same definitions as in the Wei Wai Kum Land Code except as set out below.

2.2 The following definitions apply in this Law:

"Conditional Allotment" means a right of use and occupation granted by Council by Resolution under this Law to a Wei Wai Kum Member and includes any limits, conditions, reservations, restrictions, or reversionary interests set out in the Land Code or this Law;

"Province" means British Columbia; and

"Wei Wai Kum Certificate of Possession" or "Wei Wai Kum CP" means a CP granted under this Law in accordance with the Land Code.

3. GENERAL ALLOTMENT CRITERIA

3.1 A Conditional Allotment or Wei Wai Kum CP for Band Land may only be granted in accordance with this Law.

3.2 A Conditional Allotment or Wei Wai Kum CP may only be granted to a Member.

3.3 Subject to sections 3.1 and 3.2, a Conditional Allotment or Wei Wai Kum CP in Band Land may be granted in accordance with this Law.

4. NATURAL RESOURCES

4.1 Unless specifically excluded by the document granting a Conditional Allotment or Wei Wai Kum CP of Wei Wai Kum Lands, Conditional Allotments and Wei Wai Kum CPs include all Natural Resources on or under that land to the extent they are under Wei Wai Kum jurisdiction.

4.2 Despite section 4.1:

(a) the use and development of all Natural Resources on or under Wei Wai Kum Lands is subject to all relevant Wei Wai Kum laws and other laws; and

(b) extraction of ground water, development of minerals and commercial harvesting of trees require a permit from Wei Wai Kum and requires fees and royalties to Wei Wai Kum.

5. PROCESS FOR ALLOTING COMMUNITY LANDS

- 5.1 Council may grant Conditional Allotments and Wei Wai Kum CPs in accordance with the circumstances and processes set out below.

Allotments Relating to Mortgages and Housing Agreements

- 5.2 Where, under a written agreement between Wei Wai Kum and a Member, or where a Member can demonstrate through an affidavit or otherwise that a commitment was made,
- (a) Wei Wai Kum has committed to grant a CP to a Member once that Member has paid out a mortgage, built a home, or otherwise satisfied the conditions of the agreement, or
 - (b) All or part of a Wei Wai Kum CP is temporarily cancelled or surrendered for the purpose of allowing a Member to participate in a housing program authorized by Wei Wai Kum or to allow the Member to benefit from a guarantee provided by Wei Wai Kum or for other purposes,

Council shall by Council Resolution grant a Wei Wai Kum CP in the subject lands to the Member once the following conditions have been met:

- (c) the Member has provided a written request for a CP to the Wei Wai Kum Lands Administrator;
- (d) the Member has provided documents to demonstrate that all relevant mortgages, loans and housing agreements relating to Wei Wai Kum have been paid out;
- (e) the Member has satisfied all the conditions of the agreement;
- (f) the subject lands have been properly surveyed and the survey has been registered;
- (g) the Member has complied with all relevant Wei Wai Kum Laws and policies and has paid any relevant servicing, hook-up, administration or Conditional Allotment or Wei Wai Kum CP acquisition fees;
- (h) the Member has signed an Acceptance of Home Ownership Form; and
- (i) if requested by Council, the Member has signed a release and indemnity to release and indemnify Wei Wai Kum from any liability or payments relating to the house, unit and/ or the Conditional Allotment or Wei Wai Kum CP.

Allotment After a Foreclosure or Redemption

- 5.3 Where under a mortgage which involves Wei Wai Kum as a guarantor or where Wei Wai Kum otherwise has a right to redeem a mortgage, there is a default by the Member and Wei Wai Kum pays out the mortgage or assumes liability,
- (a) Council may cancel any Conditional Allotment, CP or Wei Wai Kum CP and the parcel of land then becomes or remains Band Land;
 - (b) Wei Wai Kum may sell the Conditional Allotment, CP or Wei Wai Kum CP by sale or by lottery for a price at least equal to the amount owing under the mortgage and

any costs and expenses incurred in the foreclosure, redemption and sale proceedings; and

- (c) If the Conditional Allotment, CP or Wei Wai Kum CP is sold to another Member, Council shall by Council Resolution grant a Conditional Allotment or Wei Wai Kum CP of the subject lands to the purchasing Member subject to this Law.

Conditional Allotments

- 5.4 Where, a Member seeks a new parcel of Band Land to build a home, Council may grant a Conditional Allotment provided that:
- (a) There is a parcel of Band Land available that is appropriately zoned and serviced;
 - (b) The Member has followed any relevant Wei Wai Kum policies or procedures; and
 - (c) The Member has provided proof of pre-approval or credit confirmation from a bank or credit union.
- 5.5 Any Conditional Allotment issued under section 5.4 will include the following conditions. The Member shall:
- (a) begin construction of their home on the parcel that is the subject of the Conditional Allotment within three (3) months and shall complete construction of the home within twelve (12) months;
 - (b) meet all requirements set out in Wei Wai Kum's funding and housing agreements and policies to ensure that Wei Wai Kum's housing funding is not adversely affected;
 - (c) meet all requirements set out by CHMC;
 - (d) meet all requirements in his or her mortgage with the bank or credit union;
 - (e) meet all requirements set out in Wei Wai Kum laws including complying with the Building Code and having inspections and sign-offs for the construction;
 - (f) provide proof of home insurance and maintain this insurance at least until the mortgage for the home is discharged;
 - (g) meet any other conditions imposed by Council in granting the Conditional Allotment; and
 - (h) sign and comply with an agreement stating that he or she will comply with all of these conditions and agreeing that his or her Conditional Allotment will be cancelled if he or she does not.
- 5.6 If a Member meets all of the conditions set out in section 5.5 and any other applicable conditions set out in Wei Wai Kum Law or policy, and pays off their mortgage, Council shall grant them a Wei Wai Kum CP for the land that was the subject of the Conditional Allotment.
- 5.7 Council, the Lands Administrator or the Housing Manager shall provide written notice to a Member holding a Conditional Allotment to advise of any breaches of the conditions

set out in section 5.5 and shall require the Member to follow the process for breaches set out in the mortgage or other related agreements or, for other breaches may, in their sole discretion, allow the Member a specified period of time to remedy the breach.

- 5.8 If a Member has received written notice under section 5.7 and fails to remedy the breach within the required time period, Council may, in its sole discretion, and in accordance with the forfeiture and other procedures set out in the mortgage or procedures set out in other related agreements:
- (a) if necessary, pay out the remaining mortgage; or
 - (b) take any other legally authorized steps to seize the home and land; and
 - (c) cancel the Conditional Allotment.
- 5.9 If Council cancels a Conditional Allotment under this Law, the Member who held the Conditional Allotment has no further interests or rights in the land or home, and Council may sell or grant it to another Member.

6. EXCHANGE OF LANDS

- 6.1 Council may, by Council Resolution, exchange a parcel of Band Land for a Conditional Allotment or Wei Wai Kum CP held by a Member, where it is in the best interests of Wei Wai Kum, provided the following conditions are met:
- (a) the lands being exchanged are of approximately equal size or value;
 - (b) Council has made full disclosure through a newsletter or other means to Wei Wai Kum Members of the purpose and all the circumstances surrounding the proposed exchange; and
 - (c) Council has complied with all relevant Wei Wai Kum Laws, other laws and Land Use Plans.

7. CORRECTION OR CANCELLATION

- 7.1 In addition to exercising its authority to cancel a Conditional Allotment under section 5.8, Council may, by Council Resolution, after reviewing the documentation set out in section 7.2 and the recommendations in section 7.3:
- (a) Correct the name or names on a Conditional Allotment, CP or Wei Wai Kum CP;
 - (b) Have a Conditional Allotment, CP or Wei Wai Kum CP re-surveyed or request a surveyor to correct the boundaries of a Conditional Allotment, CP or Wei Wai Kum CP; or
 - (c) cancel a Conditional Allotment, CP or Wei Wai Kum CP.
- 7.2 The documentation under section 7.1 may include:

- (a) A court order or ruling;
- (b) A survey plan certified by a qualified surveyor; or
- (c) A release and waiver signed by all individuals potentially affected which releases and indemnifies Wei Wai Kum for any claims arising from the correction or cancellation.

7.3 Before passing a Resolution under section 7.1, Council shall:

- (a) provide thirty (30) days' written notice to all potentially affected CP-holders;
- (b) request recommendations from the Committee and the Lands Administrator; and
- (c) review and consider:
 - (i) Any recommendations from the Committee;
 - (ii) Any recommendation from the Lands Administrator; and
 - (iii) Any requests or information from all affected CP-holders.

8. REGISTRATION OF ALLOTMENTS AND CPs

- 8.1 For each Conditional Allotment or Wei Wai Kum CP granted under this Law and for all corrections and cancellations, Council shall direct the Lands Administrator to register the Conditional Allotment or Wei Wai Kum CP or the correction or cancellation in the First Nations Land Registry.
- 8.2 Registrations under section 8.1 are subject to any regulations or policies of Wei Wai Kum or the First Nations Land Registry.

9. CONFLICT OF INTEREST

- 9.1 A conflict of interest arises in any situation where a Council member or a staff member or their Relative has a personal or business interest in the matter under consideration in relation to a Conditional Allotment or Wei Wai Kum CP or proposed Conditional Allotment or Wei Wai Kum CP.
- 9.2 All Council members and staff members shall notify Council in writing, if they have a potential conflict of interest in relation to a decision about a Conditional Allotment or Wei Wai Kum CP or proposed Conditional Allotment or Wei Wai Kum CP.
- 9.3 No Council member shall participate in a decision, and no staff member shall make a recommendation, where a potential conflict of interest may improperly influence the result of the decision relating to a Conditional Allotment or Wei Wai Kum CP proposed Conditional Allotment or Wei Wai Kum CP.
- 9.4 For greater certainty, section 9.3 does not prevent Council members from participating in decisions, or staff members from making recommendations, in relation to a Conditional Allotment or Wei Wai Kum CP which will be granted via lottery or independent sale or

auction processes.

10. CONFIDENTIALITY AND PRIVACY

- 10.1** Neither Council nor staff will release or make public any information about a Member's interest in housing, Conditional Allotments or Wei Wai Kum CPs except as required by Law or for the carrying out of a process under this Law.

11. GENERAL

- 11.1** This Law is without prejudice and will not abrogate, derogate from, diminish or suspend any of Wei Wai Kum's aboriginal rights or title.
- 11.2** Where any federal Act or regulation or provincial Act or regulation or any other Wei Wai Kum Law or Law may apply to any matter covered by this Law, compliance with this Law will not relieve the person from also complying with the provisions of the other applicable Act, regulation, bylaw or law.
- 11.3** If any section of this Law is for any reason held invalid by a decision of a court of competent jurisdiction, the invalid section or subsection will be severed from and will not affect the remaining provisions of this Law.
- 11.4** The headings given to the sections and paragraphs in this Law are for convenience of reference only. They do not form part of this Law and will not be used in the interpretation of this Law.

12. PENALTY

- 12.1** Any person who violates any provision of this Law is guilty of an offence and liable upon summary conviction to a fine of up to five thousand (\$5,000) dollars or to a term of imprisonment not exceeding thirty (30) days, or both.

13. COMING INTO FORCE






13.1 This Law comes into force on the date it is passed by Council Resolution.

BE IT KNOWN that this Law entitled, "*Wei Wai Kum Land Allotment Law, 2014*", is hereby:

Enacted by a Council Resolution of Council on the 21 day of July, 2014.



Chief Robert Pollard

_____ Councillor	_____ Councillor	_____ Councillor
 Councillor	 Councillor	 Councillor
 Councillor	 Councillor	_____ Councillor

A quorum is 5 Councillors

Capital or Revenue, which ever is the case, must appear in all resolutions requesting expenditures from Band Funds.

The Council of the		Wei Wai Kum First Nation			Cash free balance	
					Capital Account	\$ _____
Date of duly convened meeting ▶	D	M	Y	Province	Revenue account \$ _____	
	2	1	07	British Columbia		

DO HEREBY RESOLVE:

TO APPROVE LAND ALLOTMENT LAW UNDER LAND CODE

WHEREAS:

- A. Wei Wai Kum First Nation has taken back control and management of Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Wei Wai Kum Land Code* effective the 31st day of January, 2013;
- B. Under the *Wei Wai Kum Land Code*, Wei Wai Kum Council is authorized to pass various laws and policies relating to lands including laws and policies relating to regulation, registration and administration of Wei Wai Kum Reserve Lands and interests in lands under sections 27, 28, 29 and allotments under section 34 of the Land Code;
- C. Wei Wai Kum First Nation is committed to developing fair and efficient processes for allotting lands under Land Code; AND
- D. Wei Wai Kum First Nation staff and the Wei Wai Kum Lands Management Advisory Committee developed a draft *Land Allotment Law* which was posted to the community on June 19, 2014, and no comments were received within the 30-day comment period set out in the *Wei Wai Kum Land Code*;

NOW THEREFORE the Council of the Wei Wai Kum First Nation, at a duly convened meeting, enacts as follows:

- 1. Council hereby approves and enacts the *Wei Wai Kum Land Allotment Law*, a copy of which is attached, as a Wei Wai Kum law.

 Councillor Tony Roberts Jr.	 Chief Bob Pollard	 Councillor Dana Roberts
 Councillor Jason Price	 Councillor Marian Atkinson	 Councillor Priscilla Henderson
 Councillor Dean Drake		

A quorum for this Band consists of 5 Council Members

FOR DEPARTMENTAL USE ONLY

Expenditure	Authority (Indian Act Section)	Source of funds	Expenditure	Authority (Indian Act Section)	Source of Funds
		Capital Revenue			Capital Revenue
Recommending Officer			Recommending Officer		