



Garden River First Nation Allotment Policy

April 2015

Chronological no. <i>K# 2015-2016-35</i>
File reference No.

BAND COUNCIL RESOLUTION

Note: The words "from our Band funds" "capital" or "revenue" whichever is the case, must appear in all resolutions requesting expenditures from Band Funds

The council of the:					Cash free balance
GARDEN RIVER FIRST NATION					Capital account
					\$ _____
Date of duly convened meeting:	Day <i>28</i>	Mo. <i>04</i>	Year <i>2015</i>	Province <i>ON</i>	Capital Account
					\$ _____

GARDEN RIVER FIRST NATION ALLOTMENT POLICY

WHEREAS, the Garden River First Nation Economic Resource and Community Development department is seeking Chief and Council support and approval in regards to the final draft of the *Garden River First Nation Allotment Policy, 2015*;

WHEREAS, the *Garden River First Nation Allotment Policy, 2015* is intended to provide a fair and transparent process for granting allotments in the Garden River First Nation lands to citizens for residential purposes. It is further intended to help implement and reinforce the Land Use Plan and its entire framework that was adopted by Chief and Council on September 17th, 2013;

WHEREAS, the Garden River First Nation has inherent Aboriginal and Treaty rights that have been acknowledged and recognized the through *Constitution Act, 1982*, treaties, negotiations, court decisions and other means;

WHEREAS, the Garden River First Nation has historically managed our lands and resources according to traditional laws and has an inherent right to self-government which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;

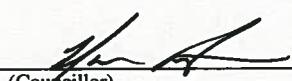
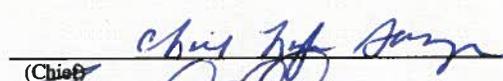
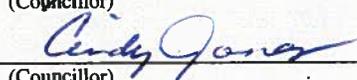
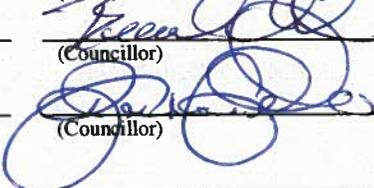
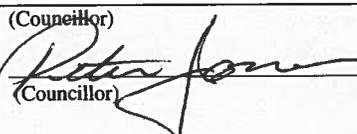
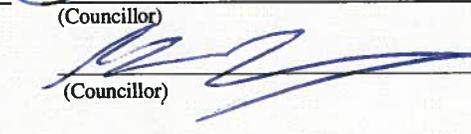
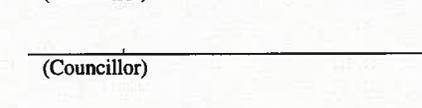
WHEREAS, the Garden River First Nation's traditional values and laws as a people are based on harmony and balance between humans, animals and the environment, respect for the diversity and autonomy of all peoples, the value of consensus-building to manage and resolve disputes, and holistic approaches to problem-solving;

WHEREAS, the Garden River First Nation Chief and Council also has authority to allot possession of Garden River Land under section 20(1) of the *Indian Act*;

WHEREAS, the Garden River Chief and Council believes it is in the best interests of Garden River First Nation to continue to allot land to Citizens in appropriate circumstances and wish to ensure that the process is fair and transparent and follows clear policies and criteria;

NOW THEREFORE BE IT RESOLVED, that the Garden River First Nation Chief and Council support and approve this *Garden River First Nation Allotment Policy, 2015* and is hereby enacted at a duly convened meeting of the Garden River First Nation Chief and Council.

Quorum _____

 (Councillor)	 (Chief)	 (Councillor)
 (Councillor)	 (Councillor)	 (Councillor)
 (Councillor)	 (Councillor)	 (Councillor)
 (Councillor)	 (Councillor)	 (Councillor)

FOR DEPARTMENT USE ONLY							
Expenditure	Authority (Indian Act Sec.)	Source of Funds		Expenditure	Authority (Indian Act Sec.)	Source of Funds	
		<input type="checkbox"/> Capital	<input type="checkbox"/> Revenue			<input type="checkbox"/> Capital	<input type="checkbox"/> Revenue
Recommending Officer			Recommending Officer				
Signature _____			Signature _____				
date _____			date _____				
Approving Officer			Approving Officer				
Signature _____			Signature _____				
date _____			date _____				



WHEREAS Garden River First Nation has inherent Aboriginal and Treaty rights that have been acknowledged and recognized the through *Constitution Act, 1982*, treaties, negotiations, court decisions and other means;

AND Garden River First Nation has historically managed our lands and resources according to traditional laws and has an inherent right to self-government which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;

AND Garden River First Nation's traditional values and laws as a people are based on harmony and balance between humans, animals and the environment, respect for the diversity and autonomy of all peoples, the value of consensus-building to manage and resolve disputes, and holistic approaches to problem-solving;

AND Garden River First Nation Council also has authority to allot possession of Garden River Land under section 20(1) of the *Indian Act*;

AND Garden River Council believes it is in the best interests of Garden River to continue to allot land to Citizens in appropriate circumstances and wish to ensure that the process is fair and transparent and follows clear policies and criteria;

NOW THEREFORE this *Garden River Allotment Policy, 2015* is hereby enacted at a duly convened meeting of the Garden River First Nation Council.



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Part 1 – PURPOSE

Council recognizes that Garden River Land is limited, and that effective land management and decision-making is required to ensure a sufficient and fair distribution of land among Citizens for residential purposes. The purpose of this Policy is to provide a fair and transparent process for granting Allotments in Garden River Land to Citizens for residential purposes.

This Allotment Policy is intended to guide Garden River's decision-making concerning allotments. It is not intended to replace the rules and procedures concerning allotments which are set out in the *Indian Act*, the AANDC Lands Management Manual, or the RLEMP Manual.

This Allotment Policy is intended to work together with all such Federal laws and policies, as well as with Garden River's Zoning Bylaw, Development Approval Procedures and Housing Policy, and all other Garden River policies, procedures, and bylaws.

Council intends that this policy be reviewed and amended if necessary one year after it has been approved, and annually thereafter, to ensure it remains relevant and effective.



Part 2 - DEFINITIONS

In this Policy, the following definitions apply:

Allotment means a parcel of Garden River Land to which a Citizen has a right of possession as a result of that land having been allotted to him / her under section 20 of the *Indian Act* (See schedule D) by the Council with the approval of the Minister, and includes CPs, Cardex holdings, NETI holdings and notices of entitlement.

BCR, for the purposes of this Policy, means a Garden River First Nation band council resolution consented to by a majority of the councillors of the band present at a meeting of the Council duly convened, which is in written form and signed by all members of Council voting in favour, and which may be registered with AANDC.

Certificate of Possession or **CP** means a Certificate of Possession or Location Ticket issued to a Citizen under section 20(2) or by virtue of section 20(3) of the *Indian Act* (see Schedule D).

Citizen means a person whose name appears on the Garden River membership list.

Community Land means any Garden River Land which is not subject to an Allotment, Designation or other exclusive interest other than that of Garden River First Nation.

Council means the duly elected Garden River Chief and Council.

Designated Land means any Garden River Land which has been designated for the purpose of the lands being leased or other right or interest in the lands being granted, pursuant to section 38(2) of the *Indian Act* (see Schedule D).

Garden River means the Garden River First Nation.

Garden River Land means:

- a) Garden River Indian Reserve # 14; and
- b) Any lands set apart by Canada in the future as reserve lands of Garden River First Nation.

Home-based Business means a permitted home-based business as defined in and which meets the requirements of sections 3.22, 3.33, and 3.24 of the Zoning Law, as amended from time to time.

Land Use Plan means a plan approved by Council addressing land use for Garden River Lands.

Land Use Plan Amendment means a land use plan amendment approved by Council in accordance with Development Approval Procedures adopted by Council.

Lands Officer, for the purposes of this Policy, means the Garden River employee responsible for administration of Garden River Lands.



Motion, for the purposes of this Policy, means a motion duly moved, approved and consented to by a majority of the councillors of the band present at a meeting of the Council duly convened, and recorded in the Council meeting minutes.

Natural Resources means any minerals (including gravel and rock), oil, gas, substances, groundwater, water, vegetation (including timber and medicinal plants) or animals found on, under or in Garden River Lands which, when removed, have economic or other value.

Serviced means, in relation to an Allotment of Community Land, lands which are connected to services required for the proposed development, including, but not limited to: septic, water, and electrical services.

Site Plan Package means a site plan package prepared in accordance with Development Approval Procedures adopted by Council.

Zoning Amendment means a zoning amendment approved by Council in accordance with Development Approval Procedures adopted by Council.

Zoning Law means the Garden River First Nation Zoning Law, as amended from time to time.



Part 3 – GENERAL ALLOTMENT CRITERIA

- 3.1 An Allotment of Community Land may only be granted in accordance with this Policy.
- 3.2 A new Allotment of Community Land
- (a) Subject to section 3.7, may only be granted to a Citizen who has attained the age of eighteen (18) years and who has never received a new Allotment from Council;
 - (b) must have legal road access which may include a right-of-way, and must not result in land-locking or blocking of access to another Allotment;
 - (c) may only be granted in respect of a surveyed parcel;
 - (d) must be Serviced or capable of being Serviced;
 - (e) subject to section 3.4, may only be granted for residential purposes, and within zones permitting residential uses; and
 - (f) must be of a size consistent with that which is permitted under the Zoning Law for the zone.
- 3.3 Citizens wishing to acquire an interest in Community Land for commercial, agricultural, or any purpose other than residential, may apply to obtain a lease or other tenure in accordance with Council policies and procedures for commercial, agricultural and other uses of Community Land.
- 3.4 Citizens may operate Home-based Businesses or carry out other secondary uses on lands subject to an Allotment only if the operation of the Home-based Business or other secondary use is permitted under the Zoning Law and the Housing Policy, and provided that the dominant use of the Allotment remains residential.
- 3.5 For greater certainty, approval of an Allotment does not relieve the Allotment holder of the requirement to comply with any other applicable Garden River law, by-law or policy.
- 3.6 (1) Notwithstanding any other provision of this Policy, Council must not approve any Allotment that:
- (a) would cause Garden River to be in breach of a contractual commitment (for example, a rent-to-own agreement or other agreement as described in section 5.12);
 - (b) is incompatible with an existing interest in land that is documented in writing;
 - (c) is inconsistent with the current Land Use Plan, Zoning Law or other Garden River by-law, or any other applicable law; or
 - (d) is otherwise not in the best interests of Garden River First Nation or its Citizens.
- (2) For certainty, an application for a Land Use Plan Amendment or a Zoning Amendment may be submitted concurrently with the Allotment Application, however Council must not make a motion establishing pre-conditions for Allotment approval under section 5.9(a) unless and until approval of the Land Use Plan Amendment or Zoning Amendment is given in accordance with the Development Approval Procedures adopted by Council.



3.7 (1) As an exception to section 3.2(a) of this Policy, a Citizen who has previously received a new Allotment from Council but who no longer holds the Allotment as a result of a settlement agreement or order concerning the disposition of spousal property following the dissolution of a spousal relationship is eligible to apply for a new Allotment in accordance with this Policy.

(2) At the time of approval of this Allotment Policy, Garden River's Matrimonial Real Property Law is under development. This Policy should be interpreted in a manner consistent with the rights of spouses and former spouses under the Matrimonial Real Property Law (once enacted) and all other applicable law.



Part 4 – NATURAL RESOURCES

- 4.1 The grant of an Allotment by Council does not authorize the holder of that Allotment to develop the Natural Resources on or under the land within the Allotment, and the Allotment holder must comply with all laws, by-laws and policies applicable to the use and development of Natural Resources on or under Garden River Lands.



Part 5 – ALLOTMENT PROCESS

- 5.1 Council may grant an Allotment in accordance with this Policy under any of the circumstances set out in this Part.

New Allotment of Community Land

- 5.2 Any Citizen who is eighteen (18) years of age or older may apply for an Allotment by submitting a completed application to the Lands Officer in the prescribed form (See Schedule “A”).
- 5.3 Upon receipt of an application form, the Lands Officer will complete membership (citizenship) verification, a land status report, will review the application for completeness using the checklist attached as Schedule B.
- 5.4 Applications for new Allotments of Community Land will be considered by Council on a first-come, first-served basis, in the order that applications are confirmed complete by the Lands Officer under section 5.3.
- 5.5 If the application is incomplete, then the Lands Officer may advise the applicant in writing to re-submit the application once the applicant has addressed the deficiencies.
- 5.6 (1) If the application is complete, then the Lands Officer will prepare a written briefing note to Council which must indicate whether or not each of the Lands, Public Works and Housing Departments are prepared to support a recommendation that the application be approved (with or without conditions).
- (2) The briefing note must attach a completed Schedule “B” Checklist and draft Motion either approving (with or without conditions), or rejecting, the application. The Public Works, Housing and Lands departments must all sign off on the completed Schedule “B” checklist before the application proceeds to Council for decision.
- 5.7 Upon receipt of a briefing note under section 5.6, Council will within a reasonable time call a meeting to decide whether to accept the application, with or without conditions.
- 5.8 Without limiting the general criteria set out in Part 3, Council may take into account the following additional factors when making a decision on whether or not to accept an Allotment Application:
- (a) Whether the applicant already holds a Certificate of Possession/ Allotment; and
- (b) Whether the applicant will be requiring the First Nation to guarantee a loan to develop the Allotment, and if so, the applicant’s credit-worthiness.
- 5.9 Upon making its decision on the application, Council must either:
- (a) make the following Motions:
- i. that the Council will grant an Allotment by BCR once the Applicant has met all pre-conditions, if any, and specifying those conditions which may include, without limitation,



- survey of the parcel and bringing Services to the parcel;
 - ii. requesting that Natural Resources Canada issue survey instructions (if required); and
 - iii. approving a conditional letter of support for a mortgage (if required) only once all criteria set under the Housing Department Policies have been met, or
 - (b) Make a Motion rejecting the application, and direct the Lands Officer to deliver to the applicant a notice that the application is rejected.
- 5.10 If Council makes a motion under section 5.9(a) which establishes conditions, the Applicant is responsible for the cost of fulfilling or complying with all conditions, unless the motion expressly states otherwise.
- 5.11 If the applicant complies with all pre-conditions set out in the Council motion made under section 5.9(a), then Council must issue a BCR allotting possession to the Applicant in a form and with the content required by Directive 3-2 of AANDC's Lands Management Manual, as it may be amended or replaced from time to time.
- 5.12 (1) An applicant whose application is rejected under section 5.9(b) may, within 30 days of receipt of a rejection notice, make an application for reconsideration by Council by delivering a written request for reconsideration which includes a concise summary of the grounds on which the applicant believes the application should be re-considered, together with any supporting documents, to the Lands Officer who must forward it to Council.
- (2) Upon receipt of a reconsideration request that meets the requirements under subsection (1), Council shall re-consider the application within a reasonable time by any means Council deems appropriate (e.g., written submissions; in-person hearing).
- (3) Council must provide an opportunity for Lands and Resources, Housing and Public Works staff to be heard, and must give reasons for its re-consideration decision.

Allotments Relating to Mortgages and Housing Agreements

- 5.12 Where, under an agreement between Garden River and a Citizen,
- (a) Garden River has committed to grant an Allotment to a Citizen once that Citizen has paid out a CMHC mortgage, built a home, or otherwise satisfied the conditions of the agreement, or
 - (b) a CP is temporarily cancelled or surrendered for the purpose of allowing a Citizen to participate in a housing program authorized by Garden River or to allow the Citizen to benefit from a guarantee provided by Garden River or for other purposes,
- Council will by BCR grant an Allotment of the subject lands to the Citizen once the following conditions have been met:
- (c) the Citizen has provided documents to demonstrate that all relevant mortgages, loans and housing agreements relating to Garden River have been paid out;



- (d) the Citizen has satisfied all the conditions of the agreement;
 - (e) the Citizen has complied with all relevant Garden River Policies and has paid any relevant servicing, administration or Allotment acquisition fees; and
 - (f) if requested by Council, the Citizen has signed an acknowledgement agreement and a release and indemnity to release and indemnify Garden River from any liability or payments for any past mortgages or debts relating to the house, unit and/ or the Allotment.
- 5.13 After the Effective Date of this Policy, Council will not make an agreement committing Garden River to grant an Allotment to a Citizen in the future unless the proposed Allotment complies with the current Land Use Plan, zoning, all applicable Garden River laws, by-laws and policies.

Allotment after a Default

- 5.14 Where under a mortgage which involves Garden River as a guarantor or for which Garden River has a right of first refusal, there is a default by the Citizen and a Citizen's interest in the Allotment is cancelled such that the Citizen has no present or future interest in the Lands:
- a) Council may directly transfer the Allotment to another Citizen from the same family as the defaulting Citizen, with individuals from the immediate family being given first priority, followed by individuals from the extended family, provided that this other Citizen pays the amount that was owing under the mortgage, any costs and expenses incurred by Garden River as a result of the default, and any other costs or fees set by Council; or
 - b) Council may advertize and sell the Allotment for a price at least equal to the amount owing under the mortgage and any costs and expenses incurred by Garden River as a result of the default, including costs and expenses of the sale.
- 5.15 Council will pay over to the defaulting Citizen any amounts remaining from a sale under section 5.14 after payment of the amount owing under the mortgage, and repayment of any costs and expenses incurred by Garden River as a result of the default and sale. For certainty, Council retains full discretion to sell the Allotment for any price that complies with section 5.14.
- 5.16 For transactions under section 5.14, Council will by BCR grant an Allotment of the subject lands once the Citizen transferee has complied with all requirements.

Exchange of Lands

- 5.16 Council may, by BCR, grant an Allotment of Community Land in exchange for one or more Allotments held by a Citizen, where it is in the best interests of Garden River, provided the following conditions are met:
- (a) the lands being exchanged are of approximately equal size or value; and
 - (b) The proposed land exchange is consistent with the Land Use Plan, zoning, and all applicable Garden River laws, by-laws and policies.



Part 6 – REGISTRATION OF ALLOTMENTS

- 6.1 For each Allotment granted or transferred by the First Nation to a Citizen under this Policy, Council must direct the Lands Officer to ensure the BCR allotting possession and any supporting documentation is promptly forwarded to the AANDC Lands Officer for Ministerial approval and registration in the Indian Lands Registry.
- 6.2 Where the First Nation is or will be guaranteeing a loan for the applicant under the Market Housing Program, no Allotment documents will be forwarded to AANDC pursuant to section 6.1 until the applicant signs:
- (a) An *Indian Act* section 24 Transfer Form transferring the Allotment back to the First Nation, and the Lands Officer must forward this Transfer Form to AANDC together with the BCR allotting possession; and
 - (b) a Security and Indemnity Agreement specifying the rights and obligations of the applicant while the loan guarantee remains in effect.



Part 7 – CONFLICT OF INTEREST

- 7.1 A conflict of interest arises in any situation where a Council member or a staff member or their immediate family has a personal or business interest in the matter under consideration in relation to an Allotment or proposed Allotment.
- 7.2 All Council members and staff members must notify Council in writing, if they have a potential conflict of interest in relation to a decision about an Allotment or proposed Allotment.
- 7.3 No Council member will participate in a decision, and no staff member will make a recommendation, where a potential conflict of interest may improperly influence the result of the decision relating to an Allotment or proposed Allotment.



Part 8 – CONFIDENTIALITY AND PRIVACY

- 8.1 Neither Council nor staff will release or make public any information about a Citizen's interest in housing or Allotments except as required by law, or for the purpose of carrying out of an Allotment process under this Policy.



Part 9 – GENERAL

- 9.1 This Policy is without prejudice and will not abrogate, derogate from, diminish or suspend any of Garden River`s aboriginal or treaty rights.
- 9.2 Where any federal Act or regulation or provincial Act or regulation or any other Garden River by-law or policy may apply to any matter covered by this Policy, compliance with this Policy will not relieve the person from also complying with the provisions of the other applicable Act, regulation, by-law or policy.
- 9.3 If any section of this Policy 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 Policy.
- 9.4 Schedules to this Policy form part of this Policy.
- 9.5 This Policy may be amended from time to time by BCR.



Part 10 – FORMS AND PROCEDURES

10.1 Council may pass Resolutions (BCRs):

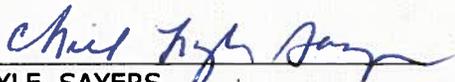
- (a) prescribing the form and content of applications for Allotments, and
- (b) creating any other forms or administrative procedures required to implement this Policy, and any such form or procedure will be appended to this Policy as a Schedule.



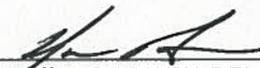
Part 11 – DATE POLICY IS EFFECTIVE

11.1 This Policy comes into effect on the date it is approved by Band Council Resolution (BCR).

THIS POLICY entitled the *Garden River Allotment Policy, 2015* is hereby approved by a quorum of Council at a duly convened Council of the Garden River First Nation held on April 28, 2015, 2015.

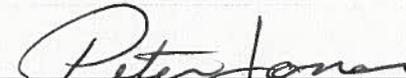

Chief LYLE SAYERS

Councillor CAROLINE BARRY


Councillor DARWIN BELLEAU

Councillor TERRY BELLEAU


Councillor CINDY BELLEAU-JONES


Councillor PETER JONES

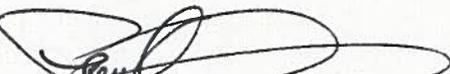

Councillor GERALD LESAGE


Councillor BRANDI NOLAN

Councillor ANDY RICKARD

Councillor CRAIG SAYERS


Councillor CHRISTOPHER SOLOMON


Councillor PAUL SYRETTE


Councillor LESLIE ZACK-CARABALLO



Garden River First Nation Allotment Policy Schedule A – New Allotment Application Form

Applicant Name _____

Citizen (Member) # _____ Date of Birth _____

Mailing Address for delivery of all notices in relation to
this application:

For Office Use

Date Received: _____

Application #: _____

Is this a re-application? Y / N

Previous application # _____

Does Applicant currently hold a Certificate of Possession in his / her name? (y/n)

Details: _____

Location and description of the lands requested for allotment: _____

(CLSR plan number / legal description, street address, or at a minimum must attach a sketch plan of the
requested land – if you require assistance with preparation of a sketch plan, please contact the lands
department)

Is the lot surveyed? _____

Is there legal access to the lands? _____

How will construction be financed? _____

Will the applicant be seeking a mortgage guarantee from the First Nation? (y/n)

Contractor's name and address (if applicable) _____

Attach Site Plan Package (per Development Approval Procedures). If Site Plan Package is not attached,
please explain:

*I/we hereby apply for an Allotment of the lands specified above. I agree to provide all information required
for this application and to abide by all applicable Garden River, federal, and provincial laws in relation to
the application.*



I/we further agree to allow any authorized Garden River Representative or their delegate to enquire into my/our credit history.

I/we accept responsibility for delays in processing caused by incorrect or insufficient submissions.

I/we assume all risks incidental to or that may arise as a result of the of this application and agree to save harmless and indemnify the Garden River First Nation and its officials, agents, servants and representatives from and against all claims, actions, costs, expenses and demands with respect to death, injury, loss or damage to persons or property arising out of or in connection with this application and any construction or other activity carried out pursuant to approval of this application. I agree to comply with or cause those whom I employ to comply with, all applicable laws, by-laws, and requirements of Garden River First Nation and any other authority having jurisdiction. I understand that no warranty is implied for the approval of this application and that this waiver and indemnity is binding on me, my heirs, executors and assigns.

I acknowledge that any Allotment by Garden River Council must be approved by the Minister of Aboriginal Affairs and without limiting the foregoing paragraph, agree not to hold Garden River in any way responsible if the Minister refuses to approve the Allotment.

I have read and agree with the above paragraphs.

Signature of Applicant

Date

Office Use:

Application is: complete not complete

Lands Officer Signature

Date



Garden River First Nation Allotment Policy

Schedule B – Checklist for Review of an Allotment Application (for Internal Lands, Public Works and Housing Department use)

Received By: _____ Date Received: _____

Applicant Name: _____

Lot #: _____ Date Checklist Completed: _____

Signature of Staff Member completing Checklist: _____

[name and title]

Application

1. Application Complete
2. Citizenship (Membership) Verified

Land Status (To be completed by Lands Officer)

3. Lands Officer conducts Land Status Report and generates Parcel Abstract, if applicable (attach)
4. Does the Land Status report / Parcel Abstract (attach) identify any conflicting encumbrances/ third party interests? (y/n) _____
Details _____

5. Is the Lot surveyed? (y/n) _____
6. Is there legal access to the property? (y/n) _____
7. All Tasks for which the First Nation is responsible under RLEMP Manual Appendix D1, "Groundwork Phase" are complete
8. Comments on Land Status:
[use separate page if necessary] _____



Housing Departmental Review (this section to be completed by Housing Director)

9. Has the Housing Department identified the parcel / lot as available for allotment?
(y/n) _____

10. Does the applicant require a First Nation loan guarantee for proposed construction / purchase?
(y/n) _____

11. If applicable has the applicant met the Housing Department's requirements for conditional support for guarantee? (y/n)

Details _____

Results of internal credit history check _____

Completed On-Reserve Mortgage Program checklist (y/n) _____

All Required Credit Enhancement steps complete? (y/n) _____

12. Housing Department Comments:
[use separate page if necessary] _____

Public Works Departmental Review (section to be completed by Public Works Director)

13. Site Plan Package Complete?(y/n)
Details _____

14. Does the site plan package conform to the Land Use Plan?(y/n)
Details _____

15. If Land Use Plan Amendment required, BCR approving LUP Amendment attached

16. Does the Site Plan Package conform to the Zoning Law? (y/n)
Details _____

17. Does the lot conform to the minimum lot size of one (1) acre, or other minimum lot size which meets Health Canada guidelines and which is permitted under the Zoning Law? (y/n)

18. Details _____

19. If Zoning Law Amendment required, BCR approving Zoning Law Amendment attached

20. If applicable, then what is the cost of bringing in Services and has the applicant agreed to pay for servicing the lot?

21. Public Works Department
Comments: _____



[use separate page if necessary] _____

Additional Factors

22. Does the Applicant already hold a Certificate of Possession? (y/n)

Details _____

23. Other _____

Recommendation

24. The Lands Officer's recommendation is that the Application be:

- APPROVED
 - NOT APPROVED
- (check one).

25. A map of the showing the lot / parcel that is the subject of the application is attached

26. If Approval is recommended, a draft Notice of Council Motion Establishing Allotment Pre-Conditions is attached.

27. If approval is NOT recommended, a draft Notice of Council Motion Rejecting Allotment Application is attached.

NOTES:

Office Use:

Reviewed by:

Lands Officer Signature

Date

Housing Supervisor Signature

Date

Director of Public Works Signature

Date

Garden River First Nation Allotment Policy

Schedule C – Notice of Council Motion Establishing Allotment Pre-Conditions

Re: Application #: _____

Name of Applicant: _____

Lot #: _____ (the "Lands")

Dear _____,

Council has reviewed your Application, and has determined that if you meet the conditions set out below within the timeframe provided then you will qualify for an Allotment. Upon fulfillment of ALL of these conditions Council will issue a Band Council Resolution (BCR) allotting the Lands to you.

If one or more of the conditions are not met on or before the expiry date, then you will no longer be eligible for the Allotment, and the land will be made available to other Citizens for allotment in accordance with the Garden River First Nation Allotment Policy.

ALLOTMENT PRE-CONDITIONS (to be completed by you within [*insert timeframe, e.g., six (6) months, 2 years, etc.*] of the date of this notice): [check all that apply]

- Secure mortgage pre-approval in an amount sufficient to cover the following:
 - Any hook-up, servicing, or other fees required to cover or offset expenses incurred by Garden River in acquiring or developing the lot
 - Legal survey of the lands to be allotted
 - Construction of the home
- Install the following Services:
 - Septic
 - Water
 - Electricity
 - Telecommunications
 - Construction-grade road access
 - [other]_____
- Have land surveyed by a Canada Lands Surveyor, and the survey registered with Natural Resources Canada
- Sign a Security Agreement specifying the rights and obligations that will apply if the First Nation guarantees a mortgage for home construction
- Sign a section 24 transfer of the Land (Allotment) back to the First Nation as security for the loan, to be registered in the Indian Lands Registry once the Allotment is registered.

You are hereby on notice that a Certificate of Possession confirming a right of possession to the allotted lands cannot be issued without the consent of the Minister of Aboriginal Affairs. The First Nation will not be liable, and the Applicant indemnifies and holds the First Nation harmless, in the event that the First Nation allots possession but the Minister of Indian Affairs refuses to consent to the Allotment and/or issue a Certificate of Possession.

Please note also that under the Garden River First Nation Allotment Policy, you will not be eligible for a First Nation loan guarantee until the Allotment and the section 24 transfer of the Land (Allotment) back to the First Nation are registered in the Indian Lands Registry.

If you have any questions, please do not hesitate to contact me.

Lands Officer Signature

Date

Garden River First Nation Allotment Policy
Schedule D – Sections of the *Indian Act*, R.S.C. 1985, c. I-5
Referred to in the Allotment Policy
(Current to April 20, 2015)

Possession of lands in a reserve

20. (1) No Indian is lawfully in possession of land in a reserve unless, with the approval of the Minister, possession of the land has been allotted to him by the council of the band.

Certificate of Possession

(2) The Minister may issue to an Indian who is lawfully in possession of land in a reserve a certificate, to be called a Certificate of Possession, as evidence of his right to possession of the land described therein.

Location Tickets issued under previous legislation

(3) For the purposes of this Act, any person who, on September 4, 1951, held a valid and subsisting Location Ticket issued under *The Indian Act, 1880*, or any statute relating to the same subject-matter, shall be deemed to be lawfully in possession of the land to which the location ticket relates and to hold a Certificate of Possession with respect thereto.

Temporary possession

(4) Where possession of land in a reserve has been allotted to an Indian by the council of the band, the Minister may, in his discretion, withhold his approval and may authorize the Indian to occupy the land temporarily and may prescribe the conditions as to use and settlement that are to be fulfilled by the Indian before the Minister approves of the allotment.

Certificate of Occupation

(5) Where the Minister withholds approval pursuant to subsection (4), he shall issue a Certificate of Occupation to the Indian, and the Certificate entitles the Indian, or those claiming possession by devise or descent, to occupy the land in respect of which it is issued for a period of two years from the date thereof.

Extension and approval

(6) The Minister may extend the term of a Certificate of Occupation for a further period not exceeding two years, and may, at the expiration of any period during which a Certificate of Occupation is in force

- (a) approve the allotment by the council of the band and issue a Certificate of Possession if in his opinion the conditions as to use and settlement have been fulfilled; or
- (b) refuse approval of the allotment by the council of the band and declare the land in respect of which the Certificate of Occupation was issued to be available for re-allotment by the council of the band.

Transfer of Possession

24. An Indian who is lawfully in possession of lands in a reserve may transfer to the band or another member of the band the right to possession of the land, but no transfer or agreement for the transfer of the right to possession of lands in a reserve is effective until it is approved by the Minister.

Designation

38. (2) A band may, conditionally or unconditionally, designate, by way of a surrender to Her Majesty that is not absolute, any right or interest of the band and its members in all or part of a reserve, for the purpose of its being leased or a right or interest therein being granted.

Garden River First Nation Allotment Policy Schedule E – Allotment Approval Process

