



SOOWAHLIE FIRST NATION

Law No. 2017-67

CP LAW

(January 2018)

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WHEREAS Soowahlie First Nation has an inherent right to self-government which emanates from our people, culture and land and which recognized and affirmed by section 35 of the *Constitution Act, 1982*;

AND Soowahlie First Nation has taken over control and management of Soowahlie Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted *Soowahlie Land Code effective (date)*;

AND under *Soowahlie Land Code*, Soowahlie Council is authorized to pass various laws relating to lands including laws relating to regulation and use of Soowahlie Lands and laws relating to allotments and creating of interests under sections 9.16 – 9.18 of the Code;

AND Council wishes to provide a fair and transparent process for granting of CP's;

NOW THEREFORE this *Soowahlie CP Law, 2018* is hereby enacted at a duly convened meeting as a Law of Soowahlie First Nation.

PART 1 - NAME

1.1 This Law may be cited as the Soowahlie CP Law.

PART 2 - PURPOSE

2.1 The purpose of this Law is to provide a fair and transparent process for granting of Allotments and CP's in Soowahlie Lands.

PART 3 - WHERE THIS LAW APPLIES

3.1 The provisions of this Law apply to the whole area of the Reserve and Soowahlie Lands as defined in Soowahlie Land Code.

PART 4 – DEFINITIONS

4.1 For the purposes of this Law, terms have the same definitions as in the Land Code;

4.2 For the purposes of this Law, the following definitions apply:

“Proposal for Allotment of Community Lands” means a document prepared in accordance with Section 7.3 of this Law

PART 5 – GENERAL ALLOTMENT CRITERIA

5.1 An Allotment or CP may only be granted in accordance with the Land Code, this Law and with any applicable housing or other policies.

5.2 A new Allotment of Community Lands:

- a) May only be granted to a Member;
- b) May only be granted for Residential Use,
- c) Must have road access which may include a right-of-way, and must not result in the land locking or blocking of access to another Allotment or CP; and
- d) May only be for a maximum lot size of not greater than one half acre.

5.3 For greater certainty, subsection 5.2 (d), does not apply to:

- a) Subdivisions of existing Allotments or CP's; or
 - b) Existing rent-to-own or surrender-and-return agreements where the parcel of land is greater than half an acre.
- 5.4 Subject to sections 5.1 and 5.2, Council may grant an Allotment in Community Lands according to the process and for the purposes set out in this Law.
- 5.5 Nothing in this Law prevents the granting of an Allotment in a strata title in accordance with this Law.

PART 6 – NATURAL RESOURCES

- 6.1 Unless specifically excluded by the document granting an Allotment of Soowahlie Lands, the Allotment includes all Natural Resources on or under that land to the extent they are under Soowahlie jurisdiction, excluding water.
- 6.2 Despite section 6.1, the use and development of all Natural resources on or under Soowahlie Lands is subject to any fees, stumpage, and royalties that may be imposed by Soowahlie and to all relevant Soowahlie Laws and other laws.

PART 7 – PROCESS FOR ALLOTING COMMUNITY LANDS

- 7.1 Council may grant an Allotment in accordance with this Law under any of the circumstances set out below.
- 7.2 For greater certainty, sections 7.3-7.5 do not apply to an Allotment that is granted in relation to section 7.6 [*housing, tenancy, or temporary surrender agreements*], 7.7 [*foreclosure*], or 7.8 [*court order*].

Proposal for Allotment

- 7.3 Where land is available and Council determines it is in the best interest of Soowahlie to grant one or more new Allotments in Community Lands for the purposes of housing, community development, raising revenues, or for other legitimate purposes, the Lands Department shall prepare or have prepared a Proposal for Allotment of Community Lands which shall set out:
- a) The location and description of the Community Lands available for Allotment;
 - b) Any terms, conditions and exceptions in the Allotment to be granted;
 - c) The permitted uses under the Land Use Plan or Zoning and Land Use Law for the Community Lands to be allotted;
 - d) The access to the land with a notification to Council regarding any access issues;
 - e) Any existing encumbrances or third part interests;
 - f) The proposed selection or sale process; and
 - g) Such other information as Council deems necessary.
- 7.4 Council may choose to hold a community meeting of Members to seek input on any aspect of a Proposal for Allotment of Community Lands.
- 7.5 Council will give full and fair consideration to any input, objections, or recommendations made by Members received prior to the Council meeting at which a decision is made to grant one or

more Allotments in accordance with a Proposal for Allotment of Community Lands under section 7.3.

Allotments Relating to Mortgages and Housing Agreements

7.6 Where, under an agreement between Soowahlie and a Member,

- a) Soowahlie has committed to grant an Allotment 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 an Allotment or CP is temporarily cancelled or surrendered for the purpose of allowing a Member to participate in a housing program authorized by Soowahlie or to allow the Member to benefit from a guarantee provided by Soowahlie or for other purposes,

Council shall by Resolution grant an Allotment of the subject lands to the Member once the following conditions have been met:

- c) The member has provided documents to demonstrate that all relevant mortgages, loans and housing agreements relating to Soowahlie have been paid out;
- d) The Member has satisfied all the conditions of the agreement;
- e) If requested by Council, the Member has signed an acknowledgement agreement and a release and indemnity to release and indemnify Soowahlie from any liability or payments for any past mortgages or debts relating to the house, unit and/or the Allotment.

Allotment After a Foreclosure

7.7 Where under a mortgage which involves Soowahlie as a guarantor or for which Soowahlie has a right of first refusal, there us a default by the Member and the Member's Allotment is forfeited and Soowahlie assumes liability,

- a) Council may directly grant the Allotment to another Member from the same family as the defaulting Member, with individuals from the immediate family being given first priority, followed by individuals from the extended family, provided that this other Member pays the amount that was owing under the mortgage, any costs and expenses incurred in the foreclosure and sale proceedings, and any other costs or fees set by Council; or
- b) Council may sell the Allotment for a price at least equal to the amount owing under the mortgage and any costs and expenses incurred in the foreclosure and sale proceedings; and
- c) Council shall by resolution grant an Allotment of the subject lands to the Member once all requirements are complied with.

Allotment After a Court Order

7.8 Where, a court of competent jurisdiction orders an Allotment or CP to be issued or transferred, Council shall by Resolution grant the Allotment or CP after complying with any relevant requirements under this Law.

Other Allotments Under Regulation

- 7.9 Council may grant any other Allotments in accordance with the Land Code or a Regulation passed by Council under this Law.

Conditional Allotments

- 7.10 Council may attach reasonable conditions to any Allotments granted which may include, without limit the generality of the conditions, as requirement to begin construction of a new home on any residential Allotment within six months.
- 7.11 The conditions for any conditional grants shall be in writing and shall specify if the Allotment will be automatically cancelled if the one or more of the conditions are not met.
- 7.12 If a Member fails to comply with specific conditions that lead to automatic cancellation, the Allotment shall be cancelled and Council shall re-issue it to another Member in accordance with this Law.

PART 8 – EXCHANGE OF LANDS

- 8.1 Council may, by resolution, exchange a grant of an Allotment in Community Lands for one or more Allotments held by a member, where it is in the best interests of Soowahlie, 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 Soowahlie Members of the purpose and all the circumstances surrounding the proposed exchange; and
 - c) Council has complied with all relevant Soowahlie Laws, Laws and Land Use Plans.
- 8.2 For greater certainty, an exchange of land under section 8.1 does not constitute an exchange of Soowahlie Land for land outside of Soowahlie Land under section 7.11 of the Land Code and does not require a Ratification Vote under section 7.12 of the Land Code.

PART 9 – REGISTRATION OF ALLOTMENTS AND CP'S

- 9.1 For each Allotment granted under this Law, Council shall direct the Lands Governance Director to:
- a) Ensure that all Laws and policies have been complied with; and
 - b) After ensuring such compliance, to register the Allotment in the First Nations Lands Register and provide a Certificate of Possession to the holder of the Allotment.

PART 10 – CONFLICT OF INTEREST

- 10.1 A conflict of interest arises in any situation where a Council member or a staff member of their immediate family has a personal or business interest in the matter under consideration in relation to an Allotment or proposed Allotment.
- 10.2 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 an Allotment or proposed Allotment.

- 10.3 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 an Allotment or proposed Allotment.
- 10.4 For greater certainty, section 10.3 does not prevent Council members from participating in decisions, or staff members from making recommendations, in relation to Allotments which be granted via lottery or independent sale or auction process.

PART 11 – CONFIDENTIALITY AND PRIVACY

- 11.1 Neither Council nor staff will release or make public any information about a Member’s interest in housing or Allotments except as required by Law or for the carrying out of an Allotment process under this Law.

PART 12 – GENERAL

- 12.1 This Law is without prejudice and will not abrogate, derogate from, diminish or suspend any of Soowahlie aboriginal rights or title.
- 12.1 Where any federal Act or regulation or provincial Act or regulation or any other Soowahlie 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, Law or law.
- 12.3 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.
- 12.4 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.
- 12.5 Nothing in this Law prevents an existing Allotment or CP from being held by or transferred to a Member who is a child or a trustee or a guardian for a child in accordance with Soowahlie Law but possession and use of the Allotment or CP may be withheld and placed in the name of a guardian or trustee until the child reaches the age of majority.

Regulations

- 12.6 Council may make regulations or pass Council Resolutions as follows:
- a) Setting out the details and process for other types of Allotments;
 - b) Prescribing the form and content of applications for allotments; and
 - c) Setting in place any other matter required to implement this Law.

PART 13 – PENALTY

- 13.1 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 one thousand (\$1,000) dollars or to a term of imprisonment not exceeding thirty (30) days, or both.

PART 14 – REGULATIONS

14.1 Council may make any regulations relating to the interpretation or implementation of this Law including:

- (a) for any purpose in relation to which regulations are provided for in this Law;
- (b) to prescribe any matter or thing referred to in this Law as prescribed or to be prescribed;
- (c) to set fees;
- (d) respecting the form and content of applications, notices and reports that are required or permitted under this Law;
- (e) to set penalties;
- (f) to define words and expressions that are used but not defined in this Law; and
- (g) generally for the purpose of giving effect to this Law.

PART 15 – COMING INTO FORCE

Date Law Comes into Force

15.1 This Law shall come into force and effect on the date it is passed by Council Resolution after complying with the requirements of the Land Code.



SOOWAHLIE INDIAN BAND

BAND COUNCIL RESOLUTION RÉSOLUTION DE CONSEIL DE BANDE

#572



Chronological no – N° consecutive
2017-67
File reference no – N° de référence du dossier

NOTE: The words "from our band funds" "capital" or "revenue" whichever is the case, must appear in all resolutions requesting expenditures from band funds
NOTA: Les mots "des fonds de notre bande" "capital" ou "revenue" selon les cas doivent paraître dans tous les résolutions portant sur des dépenses à même les fonds des bandes.

The council of the
Le conseil de

SOOWAHLIE INDIAN BAND

Cash free balance

Capital account \$ _____
Compte capital

Date of duly convened meeting
Date de l'assemblée dument convoquée

January 11, 2018

Province
B.C.

Revenue account \$ _____
Compte revenu

DO HEREBY RESOLVE:
DÉCIDE PAR LES PRESENTES:

WHEREAS Soowahlie First Nation has an inherent right to self-government which emanates from our people, culture and land and which recognized and affirmed by section 35 of the *Constitution Act, 1982*;

AND Soowahlie First Nation has taken over control and management of Soowahlie Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted *Soowahlie Land Code effective (date)*;

AND under *Soowahlie Land Code*, Soowahlie Council is authorized to pass various laws relating to lands including laws relating to regulation and use of Soowahlie Lands and laws relating to allotments and creating of interests under sections 9.16 – 9.18 of the Code;

AND Council wishes to provide a fair and transparent process for granting of CP's;

NOW THEREFORE this *Soowahlie CP Law, 2018* ^{BW} is hereby enacted at a duly convened meeting as a Law of Soowahlie First Nation.

Quorum: THREE (3)

Kim Kelly
(Councillor - Conseiller)

Brenda Wallace
(Chief - Chef)
Marcella Commodo
(Councillor - Conseiller)

(Councillor - Conseiller)

FOR DEPARTMENTAL USE ONLY – RÉSERVÉ AU MINISTRE					
Expenditure - Depenses	Authority (Indian Act section) – Autorité (Article sur la loi des Indiens)	Source of Funds Sources des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue - Revenue	Expenditure - Depenses	Authority (Indian Act section) – Autorité (Article sur la loi des Indiens)	Source of Funds Sources des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue - Revenue
Recommending officer – Recommandé par			Recommending officer – Recommandé par		
Signature		Date	Signature		Date
Approving Officer – Approuvé par			Approving Officer – Approuvé par		
Signature		Date	Signature		Date