

LAND CODE FREQUENTLY ASKED QUESTIONS



FORT MCKAY
FIRST NATION

FREQUENTLY ASKED QUESTIONS

WHAT IS THE INDIAN ACT?

The Indian Act was created in 1876 by the Parliament of Canada under the provisions of Section 91(24) of the Constitution Act of 1867, which provides Canada's federal government exclusive authority to legislate in relation to "Indians and Lands Reserved for Indians." The Department of Indigenous Services Canada (ISC), which is responsible for the act, is administered by the Minister of Indigenous Services Canada.

WHAT IS THE FRAMEWORK AGREEMENT?

The Framework Agreement on First Nation Land Management is a government-to-government agreement signed on February 12, 1996, by 13 First Nations and Canada. One other First Nation was added as a Party as of December 10, 1996.

The Framework Agreement is an initiative by these 14 First Nations to opt out of the land management sections of the Indian Act and take over responsibility for the management and control of their reserve lands and resources. The Framework Agreement sets out the principal components of the land management process. In March of 2003 the Framework Agreement was amended to allow for additional to participate. A total of 163 First Nations have signed on to the Framework Agreement as of April 2022.

The Framework Agreement provides these 163 First Nations with the option to manage their reserve lands under their own Land Codes. Until each of these First Nation communities develops and approves a Land Code to take control of its reserve lands and resources, federal administration of their reserve lands continues under the Indian Act.

WILL THE FRAMEWORK AGREEMENT AFFECT OUR TREATY?

No. The Framework Agreement is not a treaty and does not affect treaty rights or other constitutional rights of the First Nation.

WHAT IS LAND MANAGEMENT?

Land Management involves day-to-day administration of FMFN lands and resources, and the right to make laws in respect of those lands and resources.

IS THIS PART OF FIRST NATION SELF GOVERNMENT?

Yes, this is one component of self government and deals only with Fort McKay First Nation lands and resources. Matters related to other topics, e.g., elections, governance taxation and education, are still governed by the Indian Act.

WILL THE FIDUCIARY (SPECIAL) RELATIONSHIP BETWEEN THE CROWN AND FORT MCKAY FIRST NATION CONTINUE?

Yes, the federal Crown's "special relationship" with Fort McKay First Nation will continue. However, since Fort McKay First Nation will be handling the day-to-day decisions regarding lands, the Minister's responsibility and oversight under Fort McKay First Nation affairs in lands are less than they would have been under the Indian Act.

IS THERE ANY CONTINUING FEDERAL RESPONSIBILITY FOR FORT MCKAY RESERVE LANDS?

Yes, Canada will continue to hold title to Fort McKay First Nation lands. Fort McKay First Nation reserve lands remain a federal responsibility under section 91(24) of the Constitution Act, 1867.

FREQUENTLY ASKED QUESTIONS

WHO IS LIABLE FOR DAMAGES RELATED TO FORT MCKAY FIRST NATION LAND?

Canada will remain liable and will compensate for losses suffered as a result of any act or omission BEFORE the Land Code comes into effect. Fort McKay is responsible AFTER the Land Code takes effect.

WHAT OTHER FIRST NATIONS ARE INVOLVED?

There are over 100 First Nations across Canada that have enacted their land code over 60 others that are actively in the development process. In Alberta, there are 9 signatories, with several working on their land code.

HOW DOES A FIRST NATION TAKE CONTROL OF ITS LAND?

A First Nation takes control of its land by creating a Land Code, entering into an Individual Agreement with Canada, drafting a Community Ratification Process, and conducting a community vote.

WHAT IS AN INDIVIDUAL AGREEMENT?

The Individual Agreement is negotiated to deal with matters such as lands to be managed, specifics of the transfer, and the funding to be provided.

IS THE INDIAN ACT STILL RELEVANT TO FORT MCKAY FIRST NATION AFTER WE ADOPT THE LAND CODE?

Yes, approximately 2/3 of the Indian Act will still apply. Only the provisions dealing with land matters will not.

ARE FORT MCKAY FIRST NATION MEMBERS INVOLVED IN DEVELOPING THE LAND CODE?

Yes. The Fort McKay First Nation Land Code Committee was formed in March 2021 and has worked on drafting the land code since then. The committee is made up of 13 members and includes Elders, youth and members living both on and off-reserve. The Land Code will be shared with Fort McKay members who will have a chance to provide comments and input.

DOES THE LAND CODE NEED MEMBERSHIP APPROVAL?

Yes! In order for Fort McKay First Nation to resume control over its lands, the Land Code and Individual Agreement MUST be ratified by Members.

ARE OFF-RESERVE MEMBERS INVOLVED?

Yes, ALL members 18 years or older, both on and off reserve have the right to vote on the Land Code and Individual Agreement.

CAN FORT MCKAY MAKE LAWS?

Yes. Fort McKay First Nation will have the power to make laws in respect of the development, conservation, protection, management, use and possession of Fort McKay reserve lands and resources.

WHAT POWERS WILL FORT MCKAY HAVE?

Fort McKay will have all powers of an owner in relation to its land, except control over title or the power to sell. Fort McKay will be able to lease or develop their land & resources, subject to Fort McKay law.

FREQUENTLY ASKED QUESTIONS

IS FUNDING AVAILABLE TO OPERATE UNDER A LAND CODE?

Yes. Canada provides operational funding to manage land, to make, administer & enforce laws, to administer an environmental assessment & management process.

HOW WILL THE ENVIRONMENT BE PROTECTED?

Fort McKay First Nation will have the power to make environmental laws that will deal with environmental assessment and protection.

WILL FORT MCKAY LANDS BE PROTECTED UNDER THE FRAMEWORK AGREEMENT?

Yes. The reserve land base of Fort McKay First Nation will be protected for future generations. If the Land Code is adopted, Fort McKay First Nation lands cannot be sold or surrendered for sale.

- Fort McKay First Nation lands will be immune from any Provincial or Municipal expropriation.
- The power of Canada to expropriate Fort McKay First Nation land is restricted to cases where it is “justified and necessary for a federal public purpose that serves the national interest”. If such a case did occur, Fort McKay First Nation must receive an equivalent amount of land as compensation, in addition to financial compensation for other damages.
- Fort McKay First Nation may decide that it is advantageous to exchange some of its reserve land for other lands. There are provisions in the Land Code to negotiate and approve such exchanges. However, any exchange of land cannot occur without the consent of the community.

HOW DO WE BENEFIT FROM THE FRAMEWORK AGREEMENT?

For many reasons, including the following:

- Ability for Fort McKay First Nation to protect the environment
- Right to manage reserve land & resources
- Removal of Fort McKay First Nation lands from the land management sections of the Indian Act
- Inclusion of on & off reserve members in important decisions
- Increased accountability to members
- Land law making powers
- No need for Ministerial approval for Fort McKay First Nation laws
- Ability to appoint a Justice of the Peace & many more!

For more information on the Land Code initiative please visit the Fort McKay First Nation website:

<https://www.fortmckay.com/governance/land-code/>
or scan the QR code opposite.

