

# RAINY RIVER FIRST NATIONS

## Land Code & The Framework Agreement on First Nation Land Management

### FAQs

What is the Framework Agreement on First Nation Land Management?

**A First Nations-led, government-to-government agreement developed in 1996.**

- Allows 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.
- Under the Framework Agreement, signatory First Nation communities develop and approve a Land Code to take control of its reserve lands and resources.
- The Framework Agreement is not a treaty and does not affect treaty rights or other constitutional rights of the First Nations.

How is the Framework Agreement ratified?

The First Nation ratifies the Framework Agreement by developing and ratifying a Land Code by Membership vote. Over 80 First Nations have developed and ratified their own land codes to date.

Is this part of Aboriginal self-government?

Yes. This is one sectoral component of self-government by First Nations and deals only with their reserve lands and resources.

Does the Framework Agreement affect Treaty or other Aboriginal rights?

No! The Framework Agreement is not a treaty and does not affect any treaty rights. It is not intended to define or prejudice inherent rights, or any other rights, of First Nations to control their lands or resources or to preclude other negotiations in respect of those rights.

Will the fiduciary relationship between the federal Crown and the First Nations continue?

Yes. The Framework Agreement explicitly states that the Parties acknowledge that the federal Crown's "special relationship" with the First Nations will continue. As a practical matter, because under its Land Code the First Nation will be making the day-to-day decisions regarding its own lands, the Minister's responsibility as a fiduciary is less than it would be under the Indian Act, where the Minister is responsible for these day-to-day decisions.

How does a First Nation take control of its lands?

A First Nation signatory to the Framework Agreement may exercise its land management option by:

- creating its own Land Code,
- entering into a further Individual Transfer Agreement with Canada;
- drafting a community ratification process; and
- conducting a community vote.

During this time the First Nation continues to operate under the Indian Act.

When is land management authority transferred to the First Nation?

Once the members of the First Nation approve the Land Code and the Individual Transfer Agreement, control over First Nation land and resources is transferred from under the Indian Act to the First Nation's land laws and administration or according to their effective date as outlined in the First Nation's Land Code. The Individual Agreement must be signed by both the First Nation and Canada before a land code can be fully operational; many First Nations choose to wait until after a land code vote to sign this document.

## What is a Land Code?

A Land Code will be the basic land law of the First Nation and will replace the land management provisions of the Indian Act. The Land Code will be drafted by the First Nation and will make provision for the following matters:

- Identifying the reserve lands to be managed by the First Nation (called “First Nation land”),
- The general rules and procedures for the use and occupation of these lands by First Nation members and others,
- Financial accountability for revenues from the lands (except oil and gas revenues, which continue under federal law),
- The making and publishing of First Nation land laws,
- The conflict of interest rules,
- A community process to develop rules and procedures applicable to land on the breakdown of a marriage,
- A dispute resolution process,
- Procedures by which the First Nation can grant interests in land or acquire lands for community purposes,
- The delegation of land management responsibilities, and
- The procedure for amending the Land Code.

## Are First Nation members involved in developing a Land Code?

Yes. Typically, the First Nation lands department is responsible for developing a draft Land Code for the First Nation. Once the draft Land Code begins to take shape, drafts are circulated in the community, on and off-reserve, for comment. A consultation process with members (e.g. community meetings, open houses, Member mail-outs, website/social media outreach, etc.) is required for more in-depth discussion of the draft Land Code.

## Does the Land Code need community approval?

Yes. In order for the First Nation to assume control over its lands, the Land Code and the Individual Agreement must be ratified by the members of the First Nation. The procedure for the community ratification process is developed by the community in accordance with the Framework Agreement. All members of the First Nation who are at least 18 years of age, whether living off-reserve or on-reserve, have the right to vote on the Land Code and the Individual Transfer Agreement.

## Can a First Nation generate its own revenues operating under Land Code?

Yes. Revenues can be generated by leasing and granting rights and licenses in First Nation land. A First Nation can also develop its own land directly and generate profit. Taxation powers are not included in the Framework Agreement or Land Code.

The Framework Agreement provides that revenue moneys of the First Nation previously collected and held by Canada will be transferred to the First Nation when its Land Code comes into effect. Revenue funds include accumulated interest on capital accounts and funds collected by Canada such as lease revenue.

## How will accountability to the members be ensured?

A Land Code will make provision for a First Nation to report annually to its members on its land management activities. The Land Code will also set out rules on financial accountability for its management of lands, resources and revenues. The First Nation council is politically accountable for laws that it enacts. Land Codes may provide that certain laws or policies must be ratified by the community before they take effect. Examples of what might require community approval before taking effect could include:

- a land use plan,
- a grant of any interest in First Nation land for a term exceeding 25 years,
- any grant or disposition of any natural resources for a term exceeding 5 years, or
- a charge or mortgage of a leasehold interest.

## What are the major benefits of the Framework Agreement and Land Code to the First Nation?

- First real recognition of First Nation right to manage its reserve lands and resources,
- Removal of reserve lands from the Indian Act,
- Community control over First Nation land management and development,
- Inclusion of both off-reserve and on-reserve members in important decisions,
- Increased accountability to members of the First Nation,
- More efficient management of First Nation land,
- Recognition of First Nation legal capacity to acquire and hold property, to borrow, to contract, to expend and invest money, to be a party to legal proceedings, to exercise its powers and to perform its duties,
- Transfer by Canada of previous land revenues to First Nation,
- Recognition of the right to receive revenue from interests in First Nation land,
- Protection against arbitrary expropriation of First Nation land,
- Protection against loss of First Nation land through surrender for sale,
- Ability of First Nation to protect the environment,
- Ability of First Nation to address the current vacuum on rules related to land during marriage breakdown,
- Recognition of significant law-making powers respecting First Nation land,
- Removal of the need to obtain Ministerial approval for custom First Nation laws,
- Recognition in Canadian courts of First Nation laws,
- Recognition of right to create modern offences for breach of First Nation laws,
- Ability to create a local dispute resolution process,
- Establishment of a legal registry system.

For questions or more information, please contact Kiley Shebagegit, RRFN Lands & Natural Resources Coordinator at (807)482-2479, ext. 237 or e-mail [k.shebagegit@rrfns.com](mailto:k.shebagegit@rrfns.com). We want to hear from you!