



Woodstock First Nation

Land Code Questions & Answers



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1) **What is a Land Code?**

The Land Code will be the basic land law of Woodstock First Nation and will replace the 44 lands related sections of the Indian Act. The Land Code is drafted by WFN with the input of our membership, ensuring it reflects WFN's culture, customs, traditions and values. The Land Code makes provisions for:

- Identifying the reserve lands to be governed by WFN,
- General rules for use and occupation of WFN lands by members and others,
- Financial accountability to members for revenues from the lands,
- How Land Laws will be made and published,
- Conflict of interest rules,
- A community process to develop rules and procedures that apply to the land in the breakdown of a marriage,
- A dispute resolution process,
- Procedures for WFN to grant interests in land or acquire lands for community purposes,
- Delegation of land management responsibilities, and
- The procedure for amending the Land Code.

2) **What is the Individual Agreement?**

The Individual Agreement between WFN and Canada will be finalized to deal with such matters as:

- The reserve lands to be governed by the First Nation,
- The specifics of the transfer of the administration of land from Canada to the First Nation, e.g. the interests in land held by Canada that are to be transferred to the First Nation,
- The transfer of capital and revenue monies,
- An interim environmental assessment process, and
- The funding to be provided by Canada to the First Nation for Land Code implementation.

3) **How do we approve the Land Code and Individual Agreement?**

The Land Code and the Individual Agreement must be voted on (ratified) by the members of Woodstock First Nation. The Community Ratification Process document involves a thorough process to locate all eligible voting members and provide them with the opportunity to vote in person, electronically or by mail.



4) When will land management authority transferred to Woodstock First Nation?

Once the members of WFN approve the Land Code and the Individual Agreement, control over First Nation land and resources is transferred from under the Indian Act to WFN's land laws and administration or according to their effective date as outlined in the WFN Land Code.

The Individual Agreement must be signed by both WFN 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.

5) Is funding available to WFN to operate under a Land Code?

Yes, Canada will provide operational funding to WFN to manage our land, and to make, administer and enforce our own laws under the Land Code. The amount of funding will be set out in the Individual Agreement with Canada and is subject to the approval of the members of the First Nation as part of the ratification process (Land Code vote).

The annual operational amount for the year 2022-2023 would be \$283,313 with a 1% inflation each year after. Over the first two years of implementing the Land Code (after vote), WFN would also receive \$150,000 to support the transition.

6) What are the benefits of a Land Code?

- 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 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 appoint Justices of the Peace,
- Ability to create a local dispute resolution process,
- Establishment of a legal registry system,
- Establishment of a First Nation run Lands Board and Resource Centre to provide technical assistance to First Nations.

7) Is the Land Code really self-government?

Yes. This is one sectoral component of self-government by First Nations and deals only with reserve lands and resources. Matters related to other topics such as elections, membership, governance and education, would be dealt with in the context of other agreements.

8) Can the Land Code create laws about membership? Will members of WFN in the USA lose membership and services?

No, the Land Code does not and cannot affect eligibility for, or relinquishment of Indian Status or Band Membership. All services will continue as normal for all WFN members, on and off reserve.

9) Will the Land Code interfere with the current land claim announced by all Maliseet Communities?

No, Aboriginal and treaty rights are not affected by the Land Code or the Framework Agreement on First Nation Land Management. The Framework Agreement is not intended to define or prejudice inherent rights, or any other rights of First Nations to control their lands or resources or preclude other negotiations in respect of those rights. According to the Supreme Court, reserve lands are already subject to Aboriginal Title. First Nation rights to make Aboriginal Title claims to unceded or traditional lands are not changed. Many First Nations who have ratified their Land Code continue to pursue land claims and settle them.

10) If we have a Land Code, does this mean we will no longer be tax exempt?

No, the Land Code does not impact or affect personal taxation. The Land Code does not authorize laws relating to the taxation of real or personal property. Such laws may only be made separately pursuant to section 83 of the Indian Act.

The Framework Agreement on First Nation Land Management states that the sections of the Indian Act relating to taxation will continue to apply after the Land Code takes effect.





11) Will we have to pay property tax?

No, the current exemption of reserve lands and property situated on-reserve, will continue under the relevant provisions of the Indian Act, s. 29 & s. 89(1) & (2).

The Land Code does not authorize laws relating to the taxation of real or personal property. Such laws may only be made separately pursuant to section 83 of the Indian Act.

12) How long does it take for an addition to the reserve with a Land Code?

Even with a Land Code in place, the Additions to Reserve process remains the same. The most recent Framework Agreement amendments in 2018 have included new provisions to speed up additions to reserve:

- Land can be added to reserve and come under Land Code authority in a single Ministerial Order instead of an order of council.
- Options for First Nations to accept third party interests and provide for replacement interests before reserves are created.
- An option to impose land use restrictions (e.g. zoning laws) in advance of reserve creation. There is no obligation to take these measures, but they may speed up reserve creation.

13) What are fee simple lands?

Fee simple land is a type of land ownership that grants the property owner exclusive rights on a property off reserve. The Framework Agreement forbids the creation of such title. First Nation lands continue to retain the same protections as “Lands Reserved for the Indians” under section 91(24) of the Constitution Act, 1867. The First Nations Lands Advisory Board and the First Nations who have signed the Framework Agreement are strongly opposed to turning reserve lands into fee simple lands and passed a resolution in 2010 reaffirming that.

The Land Code will ensure First Nation land is protected for future generations. Once a Land Code takes effect, the land cannot be surrendered for sale, expropriated by the province, expropriation by Canada is restricted, the reserve land base can never be diminished, and maintaining reserve status is mandatory.

14) Do we get property rights?

All existing interests and licences granted to members such as certificates of possession (for land), continue as normal. Interests and licences granted to third parties, such as leases or permits, will continue as normal in accordance with their terms and conditions. Many First Nations develop further policies and laws on the granting on of interests and licences and what rights are attached to those. This would require further discussion/ clarification with members.

15) How will WFN be accountable to members under the Land Code?

Yes, besides being politically accountable, a First Nation Council under the Land Code is responsible for governing the lands and resources for the use and benefit of WFN members.



The Land Code makes provisions for WFN to report annually to the members on land governance activities. The Land Code will also set out rules on financial accountability for the governance of lands, resources and revenues and clear conflict of interest rules.

16) How will the community be involved after approving the Land Code?

The Land Code lists specific laws and matters that must go to the community for input (section 13) and specific laws and matters that must be ratified by the community before they take effect (section 14). The following matters require community approval under the Land Code:

- any master Land use plan;
- any new grant or disposition of an Interest or Licence in any Woodstock First Nation Land exceeding a term of thirty five (35) years;
- any renewal of a grant or disposition of an Interest or Licence in any Woodstock First Nation Land that extends the original term beyond thirty five (35) years;
- any grant or disposition of any non-renewable natural resources on any Woodstock First Nation Land exceeding a term of five (5) years;
- any deletion of a heritage site;
- any voluntary exchange of Woodstock First Nation Land; and
- any other matter, Land law or class of law that Council, by resolution, declares to be subject to this section.

17) How will WFN laws under the Land Code be enforced?

WFN will have full power to enforce its land and environmental laws. WFN may incorporate the summary conviction procedures of the Criminal Code for offences under our laws. Those procedures are the ones used for minor criminal offences. They are also used in some provinces for offences under provincial laws, e.g. offences under provincial environmental legislation.

WFN will be able to appoint its own justice of the peace to try offences created under our laws and can appoint our own prosecutor. WFN laws may make provision for search and seizure, fines, imprisonment, restitution, community service or alternate means for achieving compliance. The provincial court system will also be available to enforce our laws.

18) Will we be able to develop our land?

Yes, WFN will be able to create land development policies and laws to promote economic development as a Nation and for individuals. The First Nation may also become directly involved in economic development activities to create revenue and job opportunities for WFN members.



19) Can interests in First Nation land be mortgaged? Can First Nation land be mortgaged?

Yes, leasehold interests are capable of being mortgaged. The Land Code allows leasehold interests on First Nation land to be subject to mortgages and seizure by third parties. A First Nation may also allow any certificates of possession held by members to be mortgaged to the First Nation itself or to other members.

No, First Nation land cannot be mortgaged because title to First Nation land remains with the federal Crown and cannot be mortgaged. Title to First Nation land cannot be lost through legal process.

20) How will the environment be protected?

Upon approval of the Land Code, WFN lands will have immediate protection from an interim environmental assessment and protection process outlined in the Individual Agreement. WFN will have the power to make our own environmental laws. These laws will deal with environmental assessment and protection.

21) How will community land disputes be resolved?

The Land Code establishes our own processes for dealing with disputes in relation to lands and resources. These are alternative dispute resolution processes, internal to WFN.

22) Is the court system still available to resolve disputes?

Yes, WFN members and third parties may use the courts to appeal any decision of a Justice of the Peace made under WFN laws. The Land Code specifies how decisions made under the dispute resolution process are to be appealed.