Housing is a basic necessity. Housing rights and responsibilities differ for those living on- and off-reserve, with **unique legal rules** applying to on-reserve housing.

Wolastoqey Tribal Council Inc.

New Brunswick Law Foundation
Fondation pour le droit au Nouveau-Brunswick

For more details on on-reserve housing, visit our website.

WOLASTOQEY TRIBAL COUNCIL INC.

New Brunswick Law Foundation
Fondation pour le droit au Nouveau-Brunswick

On-Reserve Housing

What You Need to Know

Housing on Reserve

Reserves are lands designated for the use and benefit of a specific First Nation, with the federal government holding "title" to reserves. While First Nations and their members are **not** allowed to hold legal "title" to reserve land under the *Indian Act,* they may manage and regulate its use through:

- The *Indian Act;* or
- Your First Nation's Land Code, if they have passed one under the *First Nations Land Management Act.*

As each First Nation has its own rules, please reach out to your band office for more information.

Key CP Rules

- Section 89 of the *Indian Act* prevents non-First Nations individuals from seizing property to pay off debts, which generally means houses and CPs on reserve cannot be used as collateral for a mortgage;
- CPs can be transferred through a will, divided, or sold — but only to another member of the First Nation or the First Nation itself;
- If a person loses the right to live on reserve, the land reverts to the band within six months, though compensation may be available for improvements made to the lands.

Renting Property On-Reserve

Some First Nations have housing units that are owned by the band but rented to members and their families. If you have a CP and built a house on your allotted parcel (a shared piece of land), you may also wish to rent out that house.

Rentals on reserve can be complicated:

- Leasing to non-members requires federal approval;
- No federal law governs rentals on reserve, but some First Nations establish rules through bylaws or Land Codes;
- Provincial tenancy laws generally do not apply unless explicitly agreed upon in a lease.
- Informal leases, known as "buckshee leases," are nonbinding in court.

For on-reserve rental concerns, contact your First Nation or a lawyer. Discrimination in on-reserve housing falls under the Canadian Human Rights Act, and complaints can be directed to the Canadian Human Rights Commission.

Rights Under the Indian Act

First Nation members cannot own reserve lands but may hold a Certificate of Possession (CP), granting exclusive rights to a specific lot on reserve. Only band members can hold CPs. Typically, applications for CPs go through band councils or land management offices, with final approval and issuance by Indigenous Services Canada.

Rights Under My First Nation's Land Code

A custom Land Code allows a First Nation to create their own laws for land use and govern themselves with respect to natural resources, development, and housing, replacing the *Indian Act's* rules. Each Land Code is unique.

For more details on on-reserve housing, visit our website.