

Common Questions

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What is an urban reserve?

An urban reserve is land within a city which has been purchased by a First Nation and granted reserve status by an Order-in-Council of the Federal Cabinet. Land does not become a reserve just because it is owned by a First Nation. Reserve status is obtained by going through a process which results in a Federal designation of the land as reserve.

Urban reserves are created by a First Nation purchasing a parcel of land on the open market and then proceeding through the reserve creation process.

Why are urban reserves being created at this time?

Approximately 30 First Nations in Saskatchewan have established that they either did not receive the reserve land to which they were entitled when they signed their Treaty, or that reserve land was subsequently taken away from them. In other words, they are owed reserve land by the Provincial and Federal Governments.

In 1992, the Treaty Land Entitlement First Nations, and the Provincial and Federal Governments, signed an agreement to settle these outstanding claims. First Nations received specific sums of money for the purpose of purchasing land on the open market which would then become reserve land. Most of that land is agricultural land, but a small portion is urban land.

How many urban reserves does Saskatoon have at this time?

Two -

- * the Sutherland urban reserve of the Muskeg Lake First Nation (commercial development); and
- * the urban reserve at 20th Street and Avenue P of the One Arrow First Nation (commercial development).

Are there any other City lands which are identified as future urban reserves?

Yes. Two -

- * Avord Towers (office tower) - on Spadina Crescent - owned by the Battlefords Tribal Council; and
- * Canterbury Towers (office tower) - on 4th Avenue South - owned by the Yellowquill First Nation.

What is the effect of obtaining reserve status?

The land shifts to being under the jurisdiction of the First Nation, rather than the City. For example, City taxes do not apply. The First Nation becomes the taxing authority on the land. Many City bylaws also do not apply. They are replaced with First Nation jurisdiction. Federal laws such as the *Criminal Code* do apply.

Before land becomes a reserve, the City and the First Nation sign a Municipal Agreement to address this shift in jurisdiction.

Does City Council have the right to approve or deny an urban reserve?

No. City Council has the right to enter into good faith negotiations for a Municipal Agreement before the reserve is created. City Council does not have veto power. If negotiations fail, the matter goes to arbitration. If the arbitrator finds that the City has not negotiated in good faith, the Federal Government may proceed to create the reserve without an agreement.

Saskatoon City Council has successfully concluded Municipal Agreements for all reserve land and proposed reserve land in Saskatoon to date.

What is included in a Municipal Agreement?

The two main topics which are negotiated are Fee-for-Service and Bylaw Compatibility.

What is Fee-for-Service?

Fee-for-service is the annual payment which the City receives from the First Nation. It is a payment in lieu of taxes. It is calculated in exactly the same way as property taxes and is the exact same amount as would be billed for municipal and library taxes. The fee-for-service also includes any applicable local improvement charges, business improvement district levies, or special charges. The fee-for-service is billed at the same time, and is payable at the same time, as a property tax bill.

In return, the City is required to provide to the urban reserve all municipal services which would be provided to neighbouring land and at the same level. Municipal services include policing, fire, snow removal, infrastructure repairs, etc.

The First Nation also enters into a separate agreement with the School Boards regarding the education portion of the standard property tax levy.

Finally, the First Nation agrees that it will set its property taxes for businesses on the reserve at the same level as the City's taxes would be were the land not reserve.

What is Bylaw Compatibility?

The First Nation agrees to use its jurisdiction to ensure that the occupation, use and development of the urban reserve is essentially the same as what would be permitted if the land were not reserve land. In other words, the First Nation will ensure, through its bylaws and leases, that the urban reserve has the same zoning uses, building standards and business regulations as exist on surrounding properties.

The First Nation's independent jurisdiction is clearly recognized. On the other hand, the need for compatibility in an urban environment is also recognized.

Are there enforcement provisions in the Municipal Agreements?

Yes, there are, for both sides. The City's ultimate sanction is to cut off services to the urban reserve. Neither the City nor the First Nations has had any need of their enforcement provisions to date.

Are there any new issues which the Municipal Agreements do not cover?

Yes, the issue of retail taxes, particularly for fuel and tobacco. The first urban reserve gas bar and confectionary opened in Saskatoon in 2000. A second is opening in 2006.

Customers with a Treaty Card may be given a rebate of all or a portion of the provincial fuel and gas tax for on-reserve purchases.

At the present time, such customers are given a small rebate on fuel (approximately 2¢/litre) but a large rebate on cigarettes (approximately \$3.37/pack). GST and PST are also not payable on reserve. The result is a small reduction in price on fuel but a large reduction in price on cigarettes when purchased on-reserve.

Any fuel or tobacco tax which is not rebated to the customer is kept by the First Nation as tax revenue to be used for their own government purposes. (This represents, at present, approximately 13¢/litre of fuel sold, and \$1.00/pack of cigarettes sold.)

Customers without a Treaty Card must pay full taxes on reserve. Their taxes are remitted to the Provincial and Federal Governments. They are not retained by the First Nation.

Can the City negotiate retail taxes under the Municipal Agreement?

No, retail taxes are under either Provincial or Federal jurisdiction. The City has no right to negotiate with the First Nations regarding how much retail tax they will charge on urban reserves.

Does the City have a proposed alternative arrangement?

Yes. The City is asking the Federal and Provincial Governments, as well as the First Nations with urban reserves, to come to the table to negotiate something called a “Kamloops” or “Westbank” type agreement.

The essence of such an agreement is as follows.

The First Nation agrees to charge all customers, both those with Treaty Cards and those without, full retail taxes on all on-reserve purchases. In return, the First Nation keeps all of the taxes collected, not just those from First Nations’ customers.

In other words, if someone makes a purchase on reserve, their taxes go to the First Nation government of that reserve. If someone makes a purchase off reserve, their taxes go to the Federal and Provincial Governments. However, in both scenarios, the taxes paid are exactly the same.