



# Matrimonial Real Property | FNHPA

## ***ENACTING YOUR OWN MRP LAW***

*If your First Nation wishes to enact their own laws, we have developed the following steps for implementing **First Nation MRP Laws** with steps and best practices.*

*Your First Nation has the power to shape its own future! By taking these steps, you can create an MRP law that protects families, respects traditions, and strengthens your community's governance.*

**Start the conversation today and take control of your matrimonial real property laws.**



# STEP BY STEP AND BEST PRACTICES

Before you begin the process, assess whether your First Nation should implement an MRP law and determine the **best course of ACTION**.

## STEP 1

### /// ASSESS THE NEED AND FIRST NATION READINESS

- Conduct an internal assessment of all your existing policies, procedures, laws and by-laws, including Housing and Land Policies.
- Engage your legal counsel to review the implications of implementing an MRP law.
- Educate governance, leadership, and key stakeholders and decision-makers on the importance of the law.

## STEP 2

### /// ENGAGE LEADERSHIP, GOVERNANCE AND COMMUNITY

- **Understanding community needs:**
  - Conduct surveys, focus groups and community meetings to gather input on housing related concerns that relate to separation, divorce or death of a spouse or common-law partner.
  - Community members should have a voice that shapes their law.
  - Clear communication and transparency with your community are necessary.
  - Identify cultural and traditional practices that should be reflected in the MRP law.
- If Chief and Council formally decide to pursue enacting an MRP law, begin the process of establishing a formal MRP Working/Focus Group and/or Committee that over sees the entire process.
- **Develop strategies for community engagement:**
  - Create social media announcements and post in the most visible locations and on social media.
  - Develop a dedicated social media site, i.e., Facebook, Twitter, etc.
  - Dedicate a day of the month for MRP education with your community, i.e., every first Wednesday of the month.

**“Strong leadership and community involvement will be essential for a successful MRP law for your First Nation”**

## /// RESEARCH AND DRAFTING THE LAW

This step involves creating a law that reflects and aligns with your First Nation's values, customs, traditions, and legal needs by-laws, including Housing and Land Policies.

- Work with your MRP Working/Focus Group and/or Committee, community leaders, and Elders to draft laws that align with your First Nation values to ensure the law complies with FHRMIRA while tailoring it to your First Nation's governance structure.
- Consult your legal counsel and/or experts to review the law.
- Consult with other First Nations who have enacted their own laws for guidance.
- Draft an "initial" version of the law and gather input from your focus group.
- Ensure the "draft law" reflects the Nation's values, addresses key issues, and is ratified under the proper process-it does not need to match FHRMIRA, such as:
  - **Eligibility:** Who will be covered under the law? Does it apply only to band members, non-members or both?
  - **Rights to the matrimonial home:** Who can stay in the family home after separation or death?
    - Ensure the protection against family violence.
  - **Division of Property:** Determine how the assets will be divided after the breakdown of a relationship.
  - **Dispute Resolution Mechanism:** What mechanisms are in place to resolve conflicts (mediation, tribunal, or court processes)?

## /// COMMUNITY ENGAGEMENT/CONSULTATION AND EDUCATION

Once your community has been consulted and revisions have been made, the law can be finalized, approved and ready for implementation.

- Host regular information sessions, workshops and open discussion forums for community consultation and discussion. Clear communication and transparency with your community are necessary.
  - Explain how MRP laws affect individuals and families and what the rights and remedies are.
  - Use plain language resources to make legal concepts accessible and understandable.
  - Provide written materials, FAQ's, Fact Sheets that explain in full detail what MRP is and explain the outline for drafting the law.
    - Gather feedback and make the necessary provisions/revisions to address any issues or concerns voiced.
    - Involve trusted figures of your First Nation, such as: Elders, Youth and Community leaders in discussions to build trust.
      - Community members should be provided with many opportunities to review and provide their feedback.
      - Use various methods of communication to reach as many members as possible.
      - Do you have other departments hosting information sessions or workshops that you are able to "piggy-back" off?

**“Community participation is key to ensuring the law meets the needs of your community!”**

### /// APPROVE/RATIFY THE LAW

- Present the final “draft” law to Chief and Council for approval.
- Determine how the final approval process will be documented.
- Obtain community approval through the voting process:
  - Hold a community ratification vote.
- Document and record the approval of the law process and inform through official governance documents.
- Formally enact the law following the First Nation governance procedures and process.

**“Once the community has been consulted and all revisions and feedback have been made, the law can be finalized and approved.”**

### /// IMPLEMENTING THE MRP LAW

- Ensure you provide training and a complete overview of the MRP law to:
  - Leadership (as Chief and Councils change; it is your responsibility to ensure they are fully versed and trained).
  - Housing and Lands Staff.
  - Enforcement and Social Services Department.
  - Provide a complete overview to your community.
- Establish clear guidelines and enforcement mechanisms to oversee any disputes outside of the courts.
  - Establish mediation services and procedures to oversee these disputes.
- Community members should be educated on their rights and responsibilities through community information sessions and educational materials.
- Launch a “community awareness campaign”.
- Ensure you regularly review and update the law to reflect the evolving needs of your community.
  - Continue to train band staff including Housing and Lands, Governance, Enforcement Agencies, Social Services Departments, and all other appropriate agencies.

**“Once your law has been approved, it must be put into action through the proper policies and procedures.”**



## /// LONG TERM SUPPORT/MONITORING AND UPDATING

This step involves creating a law that reflects and aligns with your First Nation's values, customs, traditions, and legal needs by-laws, including Housing and Land Policies.

- Establish a regular review schedule; every 2 to 3 years.
  - How will the effectiveness of the law be assessed?
- Allow feedback from your community and ensure those amendments are implemented.
  - Determine what feedback mechanisms can be put in place.
- Determine if you are going to establish a formal process for reviewing and amending the law.
  - Conduct periodic refresher training needs for leadership and administrative staff.
- Conduct community engagement session.

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**Your First Nation  
 MRP law may evolve  
 from time to time to  
 reflect the changing  
 needs of your  
 community, ensure  
 you adapt these  
 changes**  
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## CONCLUSION

Implementing your own MRP law is a vital step in protecting the rights and well-being of your community and its members. By following a structured approach, your First Nation can ensure that the law is:

- **Effective** in addressing matrimonial real property matters,
  - **Fair** to all members, and;
- **Reflective** of your community's values, traditions, and customs.



**MRP Law and Governance**  
 FROM FAMILY HOMES TO NATION LAWS

For More Information:

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### Legal Disclaimer:

*The First Nations Housing Professionals Association does not provide legal advice on any matrimonial real property laws under the Family Homes on Reserves and Matrimonial Interests or Rights Act (FHRMIRA). The material provided is for information purposes only and you should not rely upon the material or information as a basis for making any legal or any other decisions. The FNHPA strongly suggests you consult a lawyer or legal clinics for guidance on next steps.*