


The background features abstract, overlapping green geometric shapes, primarily triangles and polygons, in various shades of green, creating a modern and dynamic visual effect.

Benefits of the Land Code

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- ▶ Members will have a say in how Reserve lands are managed
 - ▶ Members will be included in the development of Land Laws
 - ▶ Members will be included in the development of the Land Use Plan
 - ▶ Our Land Code will remove ourselves from the ridged land management sections of the Indian Act (where we have to get Federal Government Ministerial approval for certain transactions)
 - ▶ Reserve Lands would be administered in Metlakatla (not in Ottawa or Vancouver), meaning faster and more efficient administration

- ▶ Metlakatla will develop land and resource management capacity
 - ▶ Both the Lands Department and the Lands Management Advisory Committee will receive training and become effective land managers
 - ▶ This process lays a strong foundation for Metlakatla having our own authority for self-government over their lands and resources (not under DIA rules)
- ▶ We wouldn't be "at the bottom of the heap"
 - ▶ In the past, Land transactions under the Indian Act take a very long time (some have taken 6 years) and there have been several mistakes or misplacement of files by Indian Affairs
 - ▶ Metlakatla has a vested interest in dealing with their members, whereas the DIA doesn't know who we are
- ▶ Having a dedicated Metlakatla Lands Department will ensure that Land management is a *priority*

A circular totem pole design featuring a central figure with a large, open mouth, surrounded by various animal heads and figures in red, black, and white. The design is symmetrical and intricate, typical of Northwest Coast art.

Metlakatla Draft Land Code



Preamble

We, the people of Metlakatla First Nation, are descendants of the nine-tribes of Metlakatla and Lax Kw'alaams. We are Tsimshian and the founding people in our traditional territory. We have our ayaaxw and the adawx which are our laws and true tellings that guide us in making decisions about our lands, waters and resources.

Metlakatla First Nation heritage, including our language and spiritual beliefs, are tied to the lands and waters of our traditional territory. As such, we have a profound relationship with our land, waters and its resources, and we are committed to respecting and protecting our Tsimshian cultural heritage, a responsibility passed down through the generations.

We are stewards of our lands, waters, and resources and have an obligation to pass our responsibilities, intact, to our future generations. It is an important objective of the Metlakatla First Nation to preserve, protect, and enhance the Metlakatla First Nation land, waters, resources, heritage, language and culture.

Now Therefore this Metlakatla First Nation Land Code is hereby enacted as the fundamental land law of the Metlakatla First Nation in relation to Metlakatla First Nation Reserve Lands as defined in this Land Code.



Part 1 – Preliminary Matters

- Introduction to the land code and defines how it should be read.
- List of definitions.
- Important to know that this Land Code does not affect/change:
 - a) The by-law powers of the Indian Act.
 - b) Any aboriginal, treaty, inherent rights or other rights and freedoms.
 - c) The fiduciary relationship between Canada and MFN and its members.

Part 1 – Preliminary Matters continued

- The Land Code set out principles, rules, and administrative structures that apply to MFN Reserve Lands (10)
 - S ½ Tsimpsean
 - Wilnaskancaud
 - Shoowahtlans
 - Tuck inlet
 - Grassy Bay
 - Tugwell
 - Rushton Island
 - Squaderee
 - Avery Island
 - Edye
- Jointly held reserves not included.

Part 1 – Preliminary Matters continued

- This Land Code does not affect the eligibility of MFN or members to receive services.
- Land includes non-renewable and renewable resources, beds underlying water, water and riparian rights to the extent that these are included in the reserve.
- The authority of MFN to govern our lands and resources flows from our Aboriginal rights and title and our inherent right of self-government.

Part 2 – First Nation Legislation

Has Three Parts In It

No. 7 – Law Making Powers

No. 8 – Law Making Procedure

No. 9 – Publication of Land Laws

Law Making Powers

7.1 – Council may, in accordance with this Land Code, make Land Laws Respecting.

- a) The development, conservations, Protection, Management, use and Possession of MFN Reserve Land.
- b) Council may make Laws Protecting of archaeological and Cultural Resources.
- h) Economic Development.
- Make Laws Protecting our Subsistence Rights.

Part 2 - First Nation Legislation continued

Law Making Procedure

8.1 Council may, in consultation with the Lands committee, establish a more detailed Law-Making Process to develop, gather community input enact and Implement Land Laws.

- 8.1 A Proposed Land Law may be Introduced at a duly convened meeting of Council by:
 - a) The Chief or Councillor
 - b) The Metlakatla Executive Director

8.5 Before a proposed Land Law may be enacted by Council. Council must have two meetings.

- c) Must be introduced at least 42 days before the Land Law is to be enacted.
- d) Meets the necessary community input requirements.
- e) A Land Law enacted under Clause 7 (emergency land laws) expires 120 days after its enactment.

Part 2 – First Nation Legislation continued

Publication of Land Laws

9.1 Land Laws pursuant to this Land Code shall be:

- a) Included in the minutes of the Council meeting at which it is enacted.
- b) Make publicly available on Metlakatla website.
- e) Posted in the First Nations Land Registry and Metlakatla Lands Department.



Part 3 – Meeting of Members and Approvals

10. Participation of Eligible Voters

10.1 Every Eligible Voter is entitled to participate in the member approval process set out in Part 3 of this Land Code.

Part 3 – Meeting of Members and Approvals Continued

11. Meeting of Members

11.1 Council shall, in consultation with the Committee, develop Laws, policies or procedures for the conduct of Meetings of Members under this Land Code.

11.2 Council shall give written notice of the Meeting of members that shall include: the date, time and place, and a brief description of the matters to be discussed.

11.3 Council shall notify Members at least 14 days before the Meeting of Members.

11.4 A person, other than a member, may attend a Meeting of Members only with permission of Council.

11.5 Council shall call a meeting of Members Prior to: example

- b) Enacting a Land Law respecting environmental assessment and protection;
- c) Enacting a Land Law respecting the protection of cultural heritage resources; and
- i) Enacting a Land Law respecting the rights and procedures on expropriation.

Part 3 – Meeting of Members and Approvals Continued

12. Member Approval and Ratification

12.1 Member approval by ratification vote shall be obtained for the following:

- a) enacting a Land Use Planning Law setting out the process and key requirements for Land Use Plans and the initial Land Use Plan ,but, for greater certainty, not for subsequent Land Use Plans or amendments;
- b) any voluntary exchange of MFN Reserve Lands referred to in section 14 of this Land Code;
- c) a major amendment to this Land Code; or
- d) any Land Law, class of law, or matter that Council, by Resolution, declares to be subject to this section.

Part 3 – Meeting of Members and Approvals Continued

12.2 Member approval by ratification may be obtained by call for a vote by one or more of the following methods, including:

- a) Establishing polling locations;
- b) Mail-in ballot; or
- c) Alternative voting methods, such as electronic and telephone voting.

12.3 Explains that any ratification vote required under the Land Code shall be conducted in substantially the same manner as the MFN Community Ratification Process.

12.4 A matter or Law set out in paragraph 12.1a to d is approved by a ratification vote where a majority of those eligible voters who vote, in accordance with the procedures approved by Council, vote in favour of the matter or Law.

12.5 For a vote on a voluntary exchange of MFN Reserve Land referred to in paragraph 12.1 (a) and section 14, for which the land exchange would result in a reduction of the total quantity of MFN Reserve Lands, the exchange shall only be approved if more than sixty percent (60%) of the Eligible Voters who vote, vote in favour of the land exchange.



Part 4 – Protection of Land

13. Environment and Cultural Heritage Resources

- 1) Land Laws will be drafted by the Lands Committee, in consultation with Members (11.5b and 11.5c), to be passed by Council.
- 2) Until then, we will use the current Canadian Environmental Assessment Act.
- 3) Some protection in the mean time
 - This section is not in any other Land Code of other Nations.
 - We want to ensure Protection of our environmental and cultural heritage.



Part 4 – Protection of Land continued

14. Expropriation

- 1) Expropriation only after trying to agree
- 2) Council with Committee and Members input will make expropriation laws. (will consult members 11.5 i)
- 3) Expropriation ONLY for community works or purpose.
- 4) Provisions Land Laws will address.
- 5&6) All parties notified and a report for reasons made.
- 7) Fair Compensation.
- 8) Disputes concerning the right to expropriate determined by neutral evaluation.
 - Mediation (non-binding)
- 9) Solution of disputes by arbitration.
 - Binding decision.

Part 4 – Protection of Land continued

15. Voluntary Exchange

- 1) MFN can agree to exchange with anyone.
- 2) Exchange needs Member approval through vote (12.1b)
- 3) LMAC will oversee exchange.
- 4) Conditions
 - Value
 - Become Reserve
- 5) Council will assign representative.
- 6) Can exchange land for money or lands.
- 7) Any funds will be used to buy more land.
- 8) Info package will be sent to voters about deal before vote.

Part 5 – Financial Administration and Conflicts of Interest

Part 5 contains 2 sections – Financial Administration and Conflicts of Interest.

16.1 All financial matters, relating to MFN Reserve Lands administered under this Land Code shall be conducted in accordance with the Land Code and the Metlakatla Financial Administration Law, and with all policies or procedures established under it.

The FAL outlines the policy and procedures that must be followed. This policy was established to be very transparent in all financial and administrative matters. Very strict criteria must be met before a FAL is accepted by the government. Our FAL was accepted in December 2011.

See charts for additional information on the FAL (this document is also available on the Metlakatla website).

Part 5 – Financial Administration and Conflicts of Interest

The second part is conflict of interest.

17.1 In the event of any real, perceived or potential conflict of interest that arises in any matter related to Metlakatla Reserve Land, a Land Law, or this Land Code, the Metlakatla First nation Conflict of Interest Rules set out in the Financial Administration Law shall apply.

Conflict of Interest is when it is thought that a person was involved in making a decision that benefits him or his private interests. The policy outlines the specifics of what private interest mean (example, the person's spouse, children, etc.).

Part 6 – Metlakatla First Nations Reserve Land Administration

18. Exercise of Duties

18.1 Any Power, authority or discretion exercised by the Council, the Lands Management Advisory Committee, the Lands Department, the Director of Lands, or other individual or body established or authorized under this Land Code must be exercised on behalf of, and for the benefit and protection of, the Metlakatla First Nation.

19. Council

19.1 Council is Responsible for all matter relating to the management and administration of MFN Reserve Lands whether or not responsibilities have been delegated.

19.2 This section is a list of the responsibilities that cannot be delegated.
(example: the granting of Interests in MFN Reserve Lands and Expropriation).

Part 6 – Metlakatla First Nations Reserve Land Administration continued

20. Director of Lands

20.1 Subject to budget and qualified Candidates, Council shall hire and retain a Director of Lands.

20.2 The Director of Lands shall oversee the day-to-day operation of the Lands Department and will perform such duties and responsibilities consistent with this Land Code subsequent Land Laws.

20.3 This section is a list of responsibilities of the Director of Lands. (example manage the Lands Department and administer MFN Reserve Lands in accordance with this Land Code and Land Laws).

20.4 The Director of Lands will comply with the MFN Conflict of Interest Rules for staff as established in the Financial Administration Law.

Part 6 – Metlakatla First Nations Reserve Land Administration continued

21. Lands Management Advisory Committee.

21.1 Council will establish a LMAC consisting of 5-9 members.

21.2 Council shall appoint or confirm members to the LMAC within a year of the date the Land Code comes into effect.

21.3 Until Council approves a Terms of Reference and appoints a new LMAC, the committee members in place on the date the Land Code comes into effect will serve as the first LMAC.

21.4 The Director of Lands in consultation with the Executive Director, will develop and recommend to Council, a Terms of Reference for the LMAC.

21.6 The LMAC will comply with the MFN Conflict of Interest Rules for committees as established in the Financial Administration Law.

21.7 LMAC shall in consultation with members ensure that Land Laws, rules and procedures, as may be appropriate, are developed for Council approval. (example a member engagement and approval process to develop and implement Land Laws, and the allotment of available MFN Reserve Lands to eligible Members.

Part 7 – Interests and Licences In Land

- Members can apply for an Allotment or CP in MFN;
- Non-Members still cannot hold or be given an Allotment or CP of MFN Lands by anyone;
- Any Interest and Licence of MFN Lands granted before the Land Code, still exists after the Land Code takes effect;
- INAC will no longer be involved in overseeing the granting of Interests and Licences, such as CP's, Allotments, Leases, Permits, Easements and Right of Ways, in MFN Lands. Council is responsible for this;
- INAC will no longer be issuing timber permits or any other permits for Natural Resources on MFN Lands;

Part 7 – Interests and Licences In Land

- Anyone who holds an interest or Licence in MFN Lands will be required to abide by MFN Laws and Regulations;
- Activities on, use and/or development of any MFN Lands have to go through the Lands Office for a Permit;
- Members and other Interest holders can get seek a mortgage through Financial institutions;
- Interests and Licences must go through the Lands Office for Registering in the First Nations Lands Registry;
- A Land Law for Residency, Access and Trespass will be developed within 6 months of the Land Code coming effective.

Part 8 – Dispute Resolution

34.1 Except as otherwise provided in this Part, disputes in relation to MFN reserve lands or interests in MFN reserve lands shall be determined as follows:

- a) Parties to the dispute may be determined by mediation, arbitration, or other dispute resolution process agreed by the parties; or
- b) If the parties to the dispute do NOT agree on a dispute resolution mechanism, the dispute may be determined by a court of competent jurisdiction.

34.2 Nothing in this part precludes the Council from establishing processes or laws for resolving disputes involving the MFN reserve land (example Metlakatla Justice Tribunal).

35.1 Subject to any ruling by an arbitrator, all parties to a dispute must bear their own costs in any dispute resolution process.

35.2 For greater certainty, MFN is not liable or responsible for the costs of any dispute resolution process under this Part where MFN is not a party.

Part 9 – Offences and Enforcement of Land Laws

To enforce our Land Code and it's land laws, MFN shall have the power to:

- a) Establish offences that are punishable on summary conviction;
- b) Provide for a variety of enforcement mechanisms including fines and other alternative means for achieving compliance; and
- c) Establish comprehensive enforcement procedures consistent with Federal and Provincial law.

36.2 A law may provide for fines consistent with Federal law including up to \$100,000 for violations.

36.3 Major environmental issues – laws relating to environmental protection may include punishments similar to the Province of B.C.

36.4 MGC may enact laws respecting the use of the Justice Tribunal or Justice of the Peace.

36.5 If no Justice of the Peace, the MFN Land Code and Laws shall be enforced through the Provincial Courts.

36.6 MGC may enact laws or develop policies to deal with enforcement issues and disputes through a tribal or community justice process.

NOTE – No other First Nations have this in their Land Code.

Part 10 – Other Matters

- MFN is not liable for the past.
- Any major amendment to the land Code has to be put to vote by the membership.
- Minor revisions don't have to be voted on.
- LC takes effect if members approve it and the Individual Agreement.
- Metlakatla Land Code Review (New Section!) At least every 3 years LMAC will conduct a review in consultation with Members and recommend improvements.



A Land Code presentation by the Lands Management
Advisory Committee

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T'oyaxsut txa'niis 'nüüsm wil amuksism
Thank You all for Listening

