



**Metlakatla** Lands Department

# First Nations Land Management

Learn more about the **Metlakatla Land Code**

**Taking back control of our Metlakatla reserve lands and resources**



**INFORMATION PACKAGE #1**

Metlakatla is one of many First Nations in BC to sign onto the Framework Agreement on First Nations Land Management. A First Nation signatory to the Framework Agreement exercises its land management option by creating its own Land Code, drafting a community ratification process and entering into a further Individual Transfer Agreement with Canada. The Agreement transfers authority and management of reserve lands from the Federal government to Metlakatla's control, and removes us from roughly 25% of the Indian Act.

#### Definitions:

**Code:** A code is a set of rules and regulations.

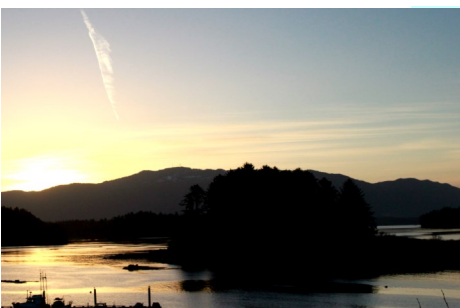
**Land Code:** A Land Code, drafted by the community, will be the basic land law of the First Nation and will replace the land management provisions of the Indian Act.

## What is the Framework Agreement on First Nations Land Management?



The Framework Agreement on First Nations Land Management is about Metlakatla resuming and exercising control over our reserve land and resources. Land management involves day-to-day administration of Metlakatla lands & resources and the right to make laws in respect to those lands & resources.

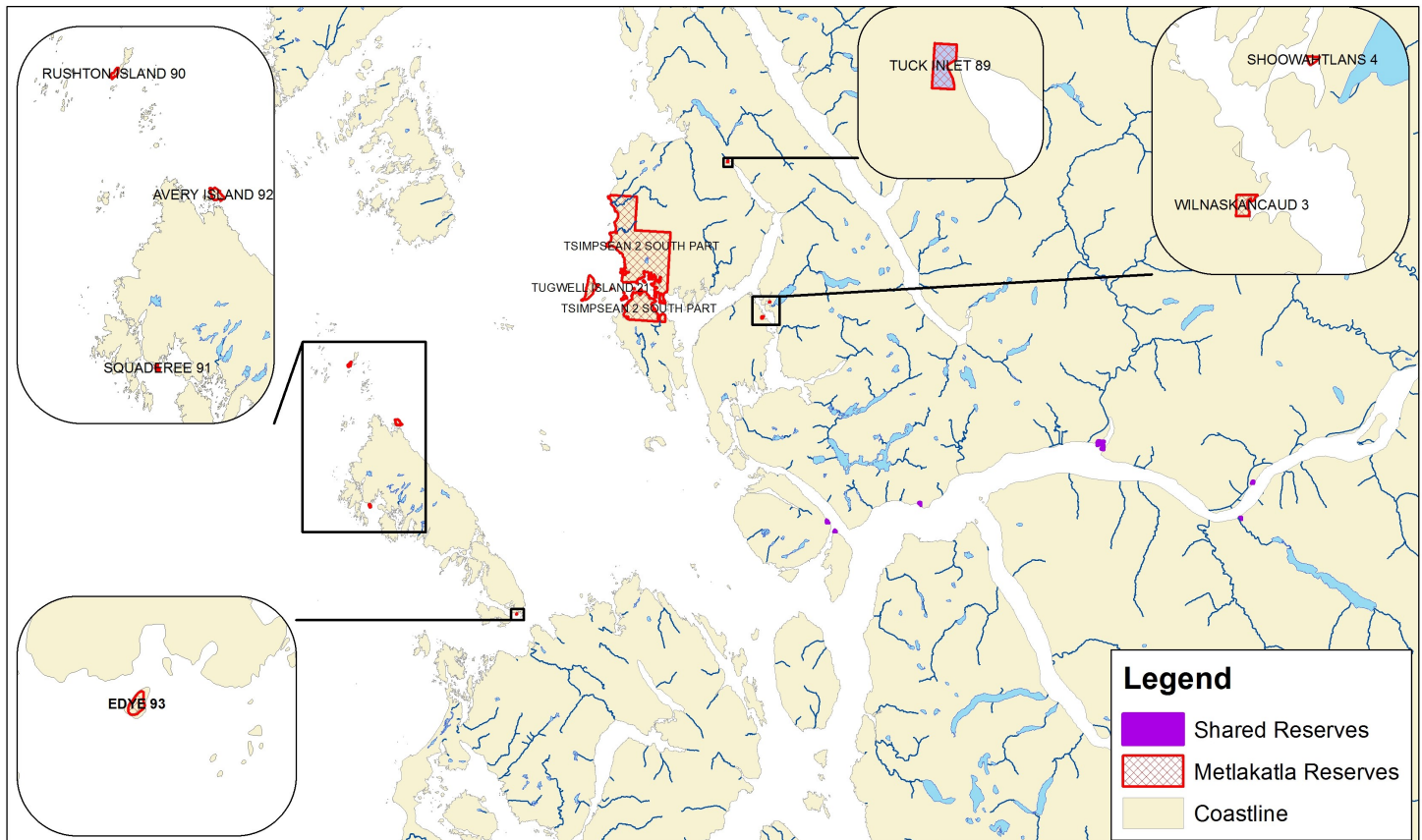
A Land Code, drafted by the community, will be the basic land law of the First Nation. The Metlakatla Land Code will define rules and procedures for land management. If Metlakatla members vote on and approve the land code, Metlakatla Governing Council, with community input, will be able to make laws in respect to the development, conservation, protection, management, use and possession of our reserve land.



Metlakatla members will also be asked to vote on an Individual Agreement alongside the Land Code. This Agreement is essentially a contract between the Federal Government and Metlakatla for the transfer of reserve lands from Department of Indian Affairs to our jurisdiction.

# Metlakatla Reserves Map

The Metlakatla Land Code would apply only to solely held Metlakatla reserves—not to those reserves shared with Lax Kw'alaams. Metlakatla has ten reserves, totalling over 3,430 hectares of land.



## What other First Nations have ratified their Codes?

Kitselas	Musqueam	Sliammon	Songhees	Sumas	Tsawwassen
Squiala	Tsleil-Waututh	Westbank	Wei Wai Kum	Tsekani	Tsawout
Skawahlook	Beecher Bay	Matsquie	Leq'a: mel	Haisla	Malahat
T'sou-ke	Wei Wai Kai	Sna Naw As	Tzeachten	Cowichan	K'omoks
Lower Nicola	Lheidli T'enneh	Nak'azdli	Tahltan	Stz'uminus	Shuswap
Neskonlith	Li'l'Wat Nation	Seabird Island	Kwantlen	Akisq'nuk	Katzie
Shxwha:y Village	Williams Lake Band	Skowkale	Aitchelitz	<b>And many more!</b>	

## Across Canada there are...

- 39 First Nations with operational Land Codes
- 50 First Nations with Land Codes in development (including Metlakatla)
- 40+ First Nations on the wait list
- And many more interested...

# Benefits of a Land Code

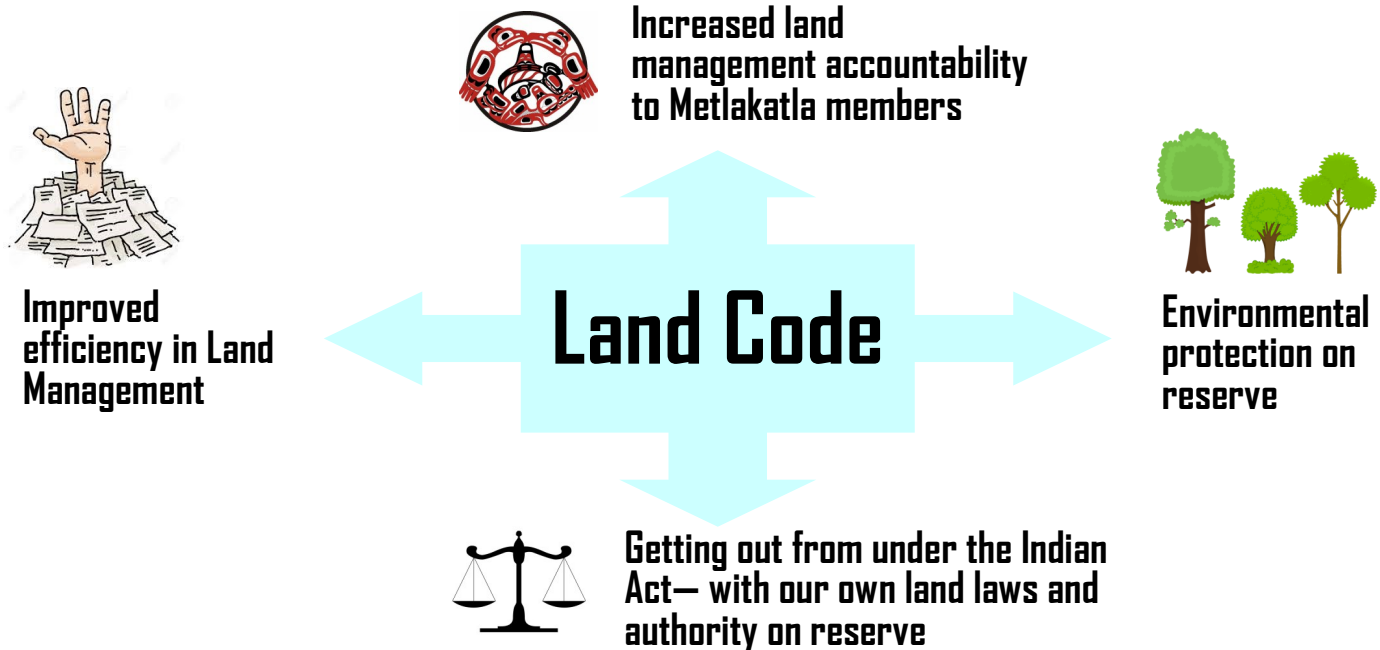
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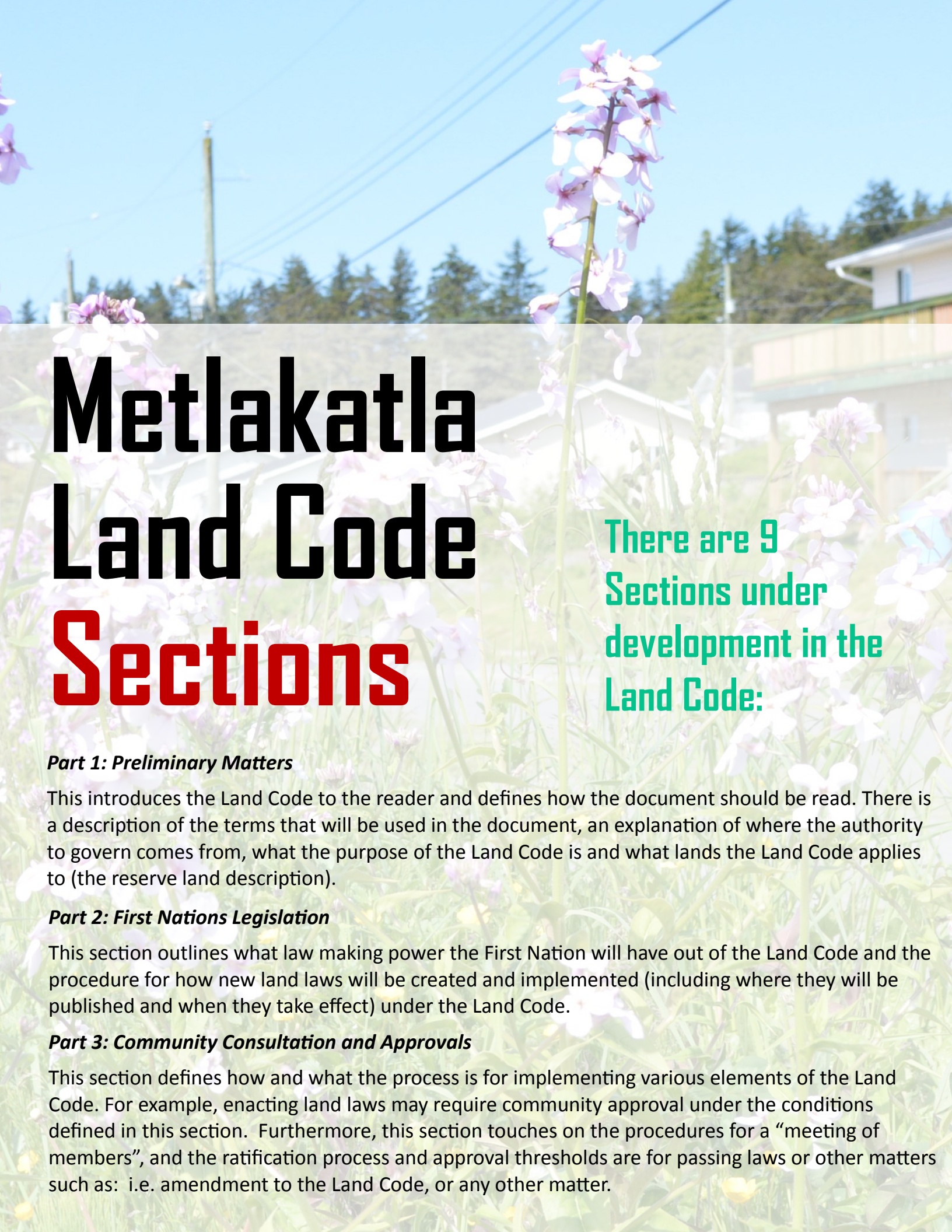
**Land Code:** A Land Code, drafted by the community, will be the basic land law of the First Nation and will replace the land management provisions of the Indian Act.

Want to know more about why Metlakatla wants to be involved in our own land management?

Below is a list of benefits...



- Recognition of First Nation right to manage lands and resources
- Removal of reserve lands from the Indian Act
- Community control over land management and development
- Improves economic development, able to operate at the speed of business
- Inclusion of both on and off reserve members in decision making
- Increased accountability for members
- More efficient management of lands (as compared to current administration of reserves by Department of Indian Affairs, where permitting can take up to 2 years)
- Transfer of previous land revenues from Canada to First Nation
- Protection against further land expropriation by Government
- Recognition of the right to receive revenue from interest in First Nation land
- Ability of First Nation to protect environment
- Recognition of significant law-making powers respecting First Nation laws
- Recognition of laws in Canadian courts
- Ability to create local dispute resolution process
- Puts us one step closer to reaching self government status
- Establishment of a legal registry system



# Metlakatla Land Code Sections

There are 9  
Sections under  
development in the  
Land Code:

## ***Part 1: Preliminary Matters***

This introduces the Land Code to the reader and defines how the document should be read. There is a description of the terms that will be used in the document, an explanation of where the authority to govern comes from, what the purpose of the Land Code is and what lands the Land Code applies to (the reserve land description).

## ***Part 2: First Nations Legislation***

This section outlines what law making power the First Nation will have out of the Land Code and the procedure for how new land laws will be created and implemented (including where they will be published and when they take effect) under the Land Code.

## ***Part 3: Community Consultation and Approvals***

This section defines how and what the process is for implementing various elements of the Land Code. For example, enacting land laws may require community approval under the conditions defined in this section. Furthermore, this section touches on the procedures for a “meeting of members”, and the ratification process and approval thresholds are for passing laws or other matters such as: i.e. amendment to the Land Code, or any other matter.

#### ***Part 4: Protection of Land***

This section outlines some of the key protections the Land Code offers- and the special conditions by which the First Nation could expropriate land (only by community approval through ratification vote) and the conditions for calculating compensation, but also the rights that may not be expropriated. This section also defines the necessity for a law on heritage sites, and ensures no development or amendment can be made to the land use plan to get rid of a heritage site created under this law. Finally this section states that an agreement is necessary for the First Nation to exchange land with another party (i.e. First Nation, Province, and Federal Government) and there are conditions to be met for lands to be received (such as the need for an appointed negotiator, freedom of receiving additional compensation or land in trust, and federal commitment to add any lands to the existing reserve base).

#### ***Part 5: Accountability***

This section really has to do with how the Land Code is administered by First Nation including the rules for a “conflict of interest” and the duty to report and abstain from participation in land matters where there is a conflict. Also in the context of conflict of interest this section defines the non-application of these rules for common interests, dealing with disputes and penalties.

This section also applies to how financial management, audit and financial reporting will be conducted – establishing separate lands bank accounts, signing officers, bonding, signing authorities, and the adoption of the fiscal year for operations and reporting. This section also goes into detail about the specific rules for a year to year lands budget and financial policy. The final part of this section is about financial records and the member’s right to access information on year to year financial statements, audit report, the annual report on lands, and the penalties for interference or obstructing the inspection of these records by another member- and the coordination and roles responsible for creating and making these documents public (i.e. auditor and council).

## ***Part 6: Land Administration***

This section starts off by establishing the Lands Management Board or Committee. This section also defines how revenue monies from lands will be handled (from fees, leases etc.), how the registration of land interests (leases, permits, licences) will be conducted and how it is captured through First Nations Land Registry System (FNLRs).

## ***Part 7: Interests in Land***

This section relates more to the operation of the First Nation's lands administration and how it will address existing interests (e.g. Certificates of Possession) and new land related interests (e.g. Certificates of Possession or allocations). This section defines that there will need to be written documents, standards created, and that consent will be necessary to process any granting or disposing of assignments of land. This section defines the rights of Certificate of Possession (CP) holders and the procedure for cancelling a CP, the transfer and use of a CP, and the situation when a CP holder ceases to be a member. This section also defines the limits on mortgages and seizures, transfers upon death, and the principles for spousal property law (to be made into a Matrimonial Real Property law)

## ***Part 8: Dispute Resolution***

This section is created to address how possible disputes that could arise by any benefactor (e.g. First Nation member) of the Land Code and how the process for addressing disputes will be conducted. For example, an adjudicator would be established to resolve disputes in relation to lands unless members could come to some resolve by way of an informal resolution of disputes. The section sets out the powers for the adjudicator, adjudication procedures and decisions and the CP member's ability to appeal these decisions and expectations around costs.

## ***Part 9: Other Matters***

This section defines four (or more) items to address common issues such as:

- Liability- the need for director and officers insurance for Lands Committee members,
- Offences and enforcement- what are offences and what is the penalty,
- Amendments to Land Code- specifically the process for amending this Land Code,
- Commencement- defines when the actual start date will be.



# Frequently Asked Questions

Metlakatla is one of many First Nations in BC to sign onto the First Nations Land Management Framework Agreement. A First Nation signatory to the Framework Agreement exercises its land management option by creating its own Land Code, drafting a community ratification process and entering into a further Individual Transfer Agreement with Canada. The Agreement transfers authority and management of reserve lands from the Federal government to Metlakatla's control, and removes us from roughly 25% of the Indian Act.

But what does this really mean? To provide a better understanding of the Act, we have a compiled of some of the most common questions our members might have.

**Q: What is the Framework Agreement on Lands Management?**

A: An initiative to take over responsibility for the management and control of Metlakatla lands & resources.

**Q: What is a Land Code?**

A: The basic land law of the First Nation. It will replace the land management provisions of the Indian Act.

**Q: What is Land Management?**

A: Land management involves day-to-day administration of Metlakatla lands & resources and the right to make laws in respect of those lands & resources.

**Q: Is this part of aboriginal self government?**

A: Yes, this is one component of self government & deals only with Metlakatla lands & resources on reserve.

**Q: Will the fiduciary relationship between the Crown & Metlakatla continue?**

A: Yes, the federal Crown's "special relationship" with Metlakatla will continue. The Minister's responsibility is less than it would have been under the Indian Act because Metlakatla handles day-to-day decisions.

**Q: Is this Bill an amendment to the Indian Act?**

A: No, Metlakatla is choosing to opt out of the land management sections of the Indian Act.

**Q: Is there any continuing federal responsibility for Metlakatla lands?**

A: Canada will continue to hold title to the land, but will have no management authority over the land.

**Q: Who is liable for damages related to Metlakatla land?**

A: Canada will remain liable & will indemnify Metlakatla for losses suffered as a result of any act or omission BEFORE the Land Code comes into effect.

Metlakatla is responsible for its own land AFTER the Land Code takes effect.

**Q: What other First Nations are involved?**

A: Matsqui, Tzeachten, Westbank, Tswwassen, Seabird, Tsleil-Waututh... To name a few in BC. There are 52 communities all across Canada.

**Q: Are other First Nations interested in joining this initiative?**

A: Yes, there is a waiting list.

**Q: How does a First Nation take control of its land?**

A: By creating a Land Code, entering into an Individual Agreement with Canada, Drafting a community ratification process, and doing a community vote.

**Q: What is an Individual Agreement?**

A: The agreement is negotiated to deal with matters such as land to be managed, specifics of the transfer, and the funding to be provided.

**Q: Is the Indian Act still relevant to Metlakatla after we adopt the Land Code?**

A: Yes, approximately 2/3 of the Indian Act will still apply. Only the provisions dealing with land matters will not.

**Q: Are Metlakatla members involved in developing a Land Code?**

A: Yes. Typically a lands committee is formed and keeps the community involved. When the Code begins to take shape, drafts are given to Members for comments.

**Q: Does the Land Code need community approval?**

A: Yes! The Land Code & Individual Agreement MUST be ratified by Metlakatla Members.

**Q: Are off-reserve Members involved?**

A: Yes, ALL Members 18 years or older, both on and off reserve have the right to vote on the Land Code and Individual Agreement.

**Q: What lands are involved?**

A: All of Metlakatla reserve lands. If a First Nation has more than one reserve, they could choose which reserves to be managed.

**Q: Will the land management powers extend to traditional Metlakatla territories?**

A: No. The land management powers only relate to reserves of Metlakatla.

**Q: Will First Nation land be considered fee simple land?**

A: No. Title to land will continue to be held by Canada but jurisdiction over the land and decision making in relation to the land will be in the hands of Metlakatla.

**Q: Can Metlakatla make laws?**

A: Yes. Metlakatla Council will have the power to make laws in respect of the development, conservation, protection, management, use and possession.

**Q: How will Metlakatla laws be enforced?**

A: Metlakatla will have full power to enforce its land & environmental laws. Metlakatla may incorporate summary conviction procedures of the Criminal Code. Metlakatla can appoint its own justice of the peace to try offences created under FN laws & can appoint a prosecutor. The provincial court system will also be available to enforce Metlakatla laws.

**Q: What powers will Metlakatla have?**

A: All the powers of an owner in relation to its reserve land, except control over title or the power to sell. Metlakatla will be able to lease or develop their reserve land & resources, subject to Metlakatla law.

**Q: What happens to existing 3rd party interests?**

A: They will continue in effect according to their terms & conditions. If the landlord was the federal government, Metlakatla assumes the rights & obligations under the existing lease, so the tenant would pay directly to Metlakatla.

**Q: How will accountability to the Members be ensured?**

A: Land Code provisions are to be reported annually to Members on land management activities.

**Q: Can Metlakatla generate its own revenues?**

A: Yes. Revenues can be generated by leasing & granting rights & licenses in Metlakatla land. Metlakatla can also develop its own land directly & generate profit.

**Q: Is funding available to operate under a Land Code?**

A: Yes. Canada provides operational funding to manage land, to make, administer & enforce laws, to administer an environmental assessment & management processes.

**Q: How will the environment be protected?**

A: Metlakatla will have the power to make environmental laws on reserve.

**Q: Do Provincial Governments support this initiative?**

A: Yes. The provinces where the First Nations are located have given written support for this initiative.

**Q: Will First Nation land be subject to taxation?**

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 be made separately pursuant to section 83 of the Indian Act.

**Q: Can a First Nation tax land under the Framework Agreement?**

No. The Land Code does not authorize laws relating to the taxation of real or personal property. Such laws must continue to be made separately pursuant to section 83 of the Indian Act.

**Don't see your question here?** Feel free to contact the Metlakatla Lands Department for more information at (250) 628 3234 or via email at [lands@metlakatla.ca](mailto:lands@metlakatla.ca)

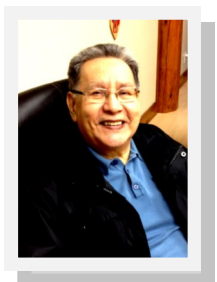


# Land Code Timeline



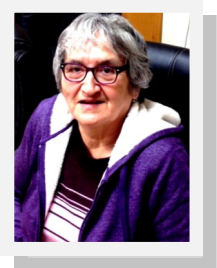
# Lands Advisory Committee

The lands advisory committee is a group of Metlakatla members who participate and provide feedback on the development of the Land Code



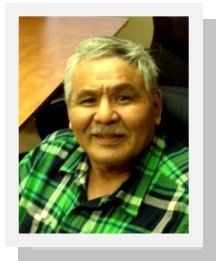
## Clarence Nelson

I am the son of Robert and Dora Nelson and a Metlakatla Band member. I am a Chief of Gilwilgoots Tribe - My hereditary name is Chief Nistooix. I am also on the Marine Use Planning Committee, and Justice Tribunal Committee. I am very happy to be asked to serve as an Elder and Hereditary Chief on the Lands Advisory Committee. I have a interest in all family and community history.



## Fanny Nelson

My traditional name is Semiguual, my English name is Fanny Nelson, I'm one of the Elders in my community of Metlakatla B.C. I'm a mother, grand-mother, great grand-mother. All my life I lived in Metlakatla. I still harvest and prepare my traditional food, which I pass on to all my children and their children. I live off the land. I'm very happy to be part of the Lands Advisory Committee, and also happy to share my knowledge of the land that belongs to our community and where we harvest our traditional foods.



## Charlie Carlick

I am interested in helping in the development of the Metlakatla Land Code for the future of the Metlakatla First Nation ownership of all traditional lands.

## Interested in becoming a member of the Lands Advisory Committee?

The Metlakatla Governing Council is looking for additional Metlakatla members for our Lands Advisory Committee to assist with the development of the Metlakatla Land Code. The Land Code will provide the rules and procedures for the use of Metlakatla's reserve lands. We are looking for people who are interested in Metlakatla land management, economic development, and self-government. Committee members must be willing to attend one or two meetings per month - an honorarium will be paid for attendance.

**For more information** please contact the Metlakatla Lands Director at [lands@metlakatla.ca](mailto:lands@metlakatla.ca) or call (250) 628 3234

# Metlakatla Lands Department Staff



## **Kiesha Pahl, Lands Clerk**

Kiesha was born in Prince George, and moved back home to Metlakatla in 1995. Living in Metlakatla allowed her to learn more of who she is, where her family comes from, the culture and harvesting traditional foods.



## **Philip Clement, Director of Lands**

Philip has a background in natural resource management, and has worked for Metlakatla since 2012. He is from Terrace, BC.

**Was this  
information helpful?  
Do you feel you now know  
more about the Lands  
Management initiative?  
Let us know!**

**For more information contact  
the Lands Dept at  
[lands@metlakatla.ca](mailto:lands@metlakatla.ca), call (250)  
628 3234 or contact one of our  
Lands Advisory Committee  
members**

**[www.metlakatla.ca/landcode](http://www.metlakatla.ca/landcode)**

