

METLAKATLA FIRST NATION

FINANCIAL ADMINISTRATION LAW, 2015

TABLE OF CONTENTS

PART I - Citation 1

PART II - Interpretation and Application 1

PART III - Administration 6

DIVISION 1 - Governing Council 6

DIVISION 2 - Finance and Audit Committee 7

DIVISION 3 - Officers and Employees 10

DIVISION 4 - Conduct Expectations 13

PART IV - Financial Management 14

DIVISION 1 - Financial Plans and Annual Budgets 14

DIVISION 2 - Financial Institution Accounts 17

DIVISION 3 - Expenditures 18

DIVISION 4 - General Matters 20

DIVISION 5 - Borrowing 22

DIVISION 6 - Risk Management 24

DIVISION 7 - Financial Reporting 28

DIVISION 8 - Information and Information Technology 33

PART V - Capital Projects 34

PART VI - Miscellaneous 37

SCHEDULE - METLAKATLA FIRST NATION CONFLICT OF INTEREST RULES .. 43

WHEREAS:

A. Pursuant to section 9 of the *First Nations Fiscal Management Act*, the Council of a First Nation may make laws respecting the financial administration of the First Nation; and

B. The Governing Council of the Metlakatla First Nation considers it to be in the best interests of the Metlakatla First Nation to make a law for such purposes,

NOW THEREFORE, the Governing Council of the Metlakatla First Nation enacts as follows:

PART I - Citation

Citation

1. This Law may be cited as the *Metlakatla First Nation Financial Administration Law, 2015*.

PART II - Interpretation and Application

Definitions

2. (1) Unless the context indicates the contrary, in this Law:

“annual budget” means the annual budget of Metlakatla that has been approved by the Governing Council under subsection 26(3);

“annual financial statements” means the annual financial statements of Metlakatla referred to in Division 7 of Part IV;

“appropriation” means an allocation of money under a budget to the purposes for which it may be used;

“auditor” means the auditor of Metlakatla appointed under section 74;

“borrowing member” means a First Nation that has been accepted as a borrowing member under subsection 76(2) of the FMA and has not ceased to be a borrowing member under section 77 of the FMA;

“capital project” means the construction, rehabilitation or replacement of Metlakatla tangible capital assets and any other major capital projects funded by local revenues in which Metlakatla or its related bodies are investors;

“life-cycle management program” means the program of inspection, review and planning for management of Metlakatla’s tangible capital assets as described in section 89;

“Chair” means the chair of the Finance and Audit Committee appointed under section 12;

“code” means a code adopted by Metlakatla under the *First Nations Oil and Gas and Moneys Management Act* or a land code adopted by Metlakatla under the *First Nations Land Management Act*;

“COIR” means the Metlakatla First Nation Conflict of Interest Rules, which are attached as a schedule to, and which form part of this Law;

“Councillor” means a member of the Governing Council and includes the Chief of Metlakatla;

“entity” means a corporation or a partnership, a joint venture or any other unincorporated association or organization, the financial transactions of which are consolidated in the annual financial statements of Metlakatla in accordance with GAAP;

“Finance and Audit Committee” means the Finance and Audit Committee established under section 11;

“financial administration” means the management, supervision, control and direction of all matters relating to the financial affairs of Metlakatla;

“financial competency” means the ability to read and understand financial statements that present accounting issues reasonably expected to be raised by Metlakatla’s financial statements;

“financial institution” means the FNFA, a bank, or a credit union;

“financial records” means all records respecting the financial administration of Metlakatla, including the minutes of meetings of the Governing Council and the Finance and Audit Committee;

“fiscal year” means the fiscal year of Metlakatla set out in section 23;

“FMA” means the *First Nations Fiscal Management Act*;

“FMB” means the First Nations Financial Management Board established under the FMA;

“FMB standards” means the standards established from time to time by the FMB under the FMA;

“FNFA” means the First Nations Finance Authority established under the FMA;

“FNTC” means the First Nations Tax Commission established under the FMA;

“FNTC standards” means the standards established from time to time by the FNTC under the FMA;

“GAAP” means generally accepted accounting principles of the Chartered Professional Accountants of Canada, as revised or replaced from time to time;

“Governing Council” means the Metlakatla Governing Council;

“HR manual” means the Metlakatla First Nation Human Resource Manual;

“indemnify” means pay amounts required or incurred to

(a) defend an action or prosecution brought against a person in connection with the exercise or intended exercise of the person’s powers or the performance or intended performance of the person’s duties or functions, or

(b) satisfy a judgment, award or penalty imposed in an action or prosecution referred to in paragraph (a);

“local revenue law” means a local revenue law made by Metlakatla under the FMA;

“local revenues” means money raised under a local revenue law;

“Metlakatla” means the Metlakatla First Nation (formerly known as the Metlakatla Indian Band), being a band named in the schedule to the FMA, and includes any successor of the Metlakatla First Nation;

“Metlakatla financial assets” means all money and other financial assets of Metlakatla;

“Metlakatla lands” means all reserves of Metlakatla within the meaning of the *Indian Act*;

“Metlakatla law” means any law, including any by-law or code, of Metlakatla made by the Governing Council or the membership of Metlakatla;

“Metlakatla official” means a current or former Councillor, officer or employee of Metlakatla;

“Metlakatla records” means all records of Metlakatla respecting its governance, management, operations and financial administration;

“Metlakatla tangible capital assets” means all non-financial assets of Metlakatla having physical substance that

(a) are held for use in the production or supply of goods and services, for rental to others, for administrative purposes or for the development, construction, maintenance or repair of other tangible capital assets,

(b) have useful economic lives extending beyond an accounting period,

(c) have a historic cost of at least ten thousand dollars (\$10 000),

(d) are to be used on a continuing basis, and

(e) are not for sale in the ordinary course of operations;

“multi-year financial plan” means the plan referred to in section 24;

“natural resources” means any material on or under Metlakatla lands in their natural state which, when extracted, has economic value;

“officer” means the senior manager, senior financial administrator, tax administrator and any other employee of Metlakatla designated by the Governing Council as an officer;

“other revenues” means other revenues as defined in section 3 of the *Financing Secured by Other Revenues Regulations* made under the FMA;

“record” means anything on which information is recorded or stored by any means whether graphic, electronic, mechanical or otherwise;

“rehabilitation” includes alteration, extension and renovation but does not include routine maintenance;

“related body” means

(a) any agency of Metlakatla,

(b) any corporation in which Metlakatla has a material or controlling interest,

(c) any partnership in which Metlakatla or another related body of Metlakatla is a partner with a material or controlling interest, or

(d) a trust of Metlakatla;

“remuneration” means any salaries, wages, commissions, bonuses, fees, honoraria and dividends and any other monetary and non-monetary benefits;

“replacement” includes substitution, in whole or in part, with another of Metlakatla’s tangible capital assets;

“reportable expenses” includes the costs of transportation, accommodation, meals, hospitality and incidental expenses;

“senior financial administrator” means the person appointed senior financial administrator under section 18;

“senior manager” means the person appointed senior manager under section 17;

“special purpose report” means a report described in section 73;

“standards” means the standards established from time to time under the FMA;

“tax administrator” means the person appointed tax administrator under Metlakatla’s local revenue laws; and

“Vice-chair” means the vice-chair of the Finance and Audit Committee appointed under section 12.

(2) Except as otherwise provided in this Law, words and expressions used in this Law have the same meanings as in the FMA.

(3) Unless a word or expression is defined under subsection (1) or (2) or another provision of this Law, the definitions in the *Interpretation Act* apply.

(4) All references to named enactments in this Law are to enactments of the Government of Canada.

Interpretation

3.(1) In this Law, the following rules of interpretation apply:

(a) words in the singular include the plural, and words in the plural include the singular;

(b) words importing female persons include male persons and corporations and words importing male persons include female persons and corporations;

(c) if a word or expression is defined, other parts of speech and grammatical forms of the same word or expressions have corresponding meanings;

(d) the expression “shall” is to be construed as imperative, and the expression “may” is to be construed as permissive;

(e) unless the context indicates otherwise, “including” means “including, but not limited to”, and “includes” means “includes, but not limited to”; and

(f) a reference to an enactment includes any amendment or replacement of it and every regulation made under it.

(2) This Law shall be considered as always speaking and where a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise, so that effect may be given to this Law according to its true spirit, intent and meaning.

(3) Words in this Law referring to an officer, by name of office or otherwise, also apply to any person designated by the Governing Council to act in the officer’s place or to any person assigned or delegated to act in the officer’s place under this Law.

Posting of Public Notice

4.(1) If a public notice shall be posted under this Law, the public notice is properly posted if a written notice is placed in a conspicuous and accessible place for public viewing on Metlakatla lands.

(2) Unless expressly provided otherwise, if a public notice of a meeting shall be posted under this Law the notice shall be posted at least five (5) days before the date of the meeting, unless the matter is urgent.

Calculation of Time

5. In this Law, time shall be calculated in accordance with the following rules:

(a) where the time limited for taking an action ends or falls on a holiday, the action may be taken on the next day that is not a holiday;

(b) where there is a reference to a number of days, not expressed as “clear days”, between two events, in calculating that number of days the day on which the first event happens is excluded and the day on which the second event happens is included;

(c) where a time is expressed to begin or end at, on or within a specified day, or to continue to or until a specified day, the time includes that day;

(d) where a time is expressed to begin after or to be from a specified day, the time does not include that day; and

(e) where anything is to be done within a time after, from, of or before a specified day, the time does not include that day.

Conflict of Laws

6.(1) If there is a conflict between this Law and another Metlakatla law, other than a code or a local revenue law, this Law prevails.

(2) If there is a conflict between this Law and the FMA, the FMA prevails.

(3) If there is a conflict between this Law and a local revenue law, the local revenue law prevails.

Scope and Application

7. This Law applies to the financial administration of Metlakatla.

PART III - Administration

DIVISION 1 - Governing Council

Responsibilities of Governing Council

8.(1) The Governing Council is responsible for all matters relating to the financial administration of Metlakatla whether or not they have been assigned or delegated to an officer, employee, committee, contractor or agent by or under this Law.

(2) Subject to paragraph 5(1)(f) of the *First Nations Fiscal Management Act*, this Law and any other applicable Metlakatla law, the Governing Council may delegate to any of its officers, employees, committees, contractors or agents any of its functions under this Law except the following:

- (a) the approval of Governing Council policies, procedures or directions respecting financial administration which under this Law are the responsibility of the Governing Council;
- (b) the appointment of members, the Chair and the Vice-chair;
- (c) the approval of budgets and financial statements of Metlakatla; and
- (d) the approval of borrowing of Metlakatla.

Governing Council Policies, Procedures and Directions

9.(1) Subject to subsection (2), the Governing Council may establish policies and procedures and give directions respecting any matter relating to the financial administration of Metlakatla.

(2) The Governing Council shall establish policies or procedures or give directions respecting the acquisition, management and safeguarding of Metlakatla assets.

(3) The Governing Council shall not establish any policies or procedures or give any directions relating to the financial administration of Metlakatla that are in conflict with this Law, the FMA or GAAP.

(4) The Governing Council shall ensure that all human resources policies and procedures are designed and implemented to facilitate effective internal financial administration controls.

(5) The Governing Council shall document all its policies, procedures and directions and make them available to any person who is required to act in accordance with them or who may be directly affected by them.

(6) The Governing Council shall approve all policies and procedures under subsection (1), and all amendments to such policies, by resolution.

Reporting of Remuneration and Expenses

10. Annually the senior financial administrator shall prepare a report separately listing the remuneration paid and reportable expenses reimbursed by Metlakatla, and by any entity, to each Councillor whether such amounts are paid to the Councillor while acting in that capacity or in any other capacity, and including any items required to be reported under the *First Nations Financial Transparency Act*.

DIVISION 2 - Finance and Audit Committee

Finance and Audit Committee Established

11.(1) The Finance and Audit Committee of Metlakatla is established to provide the Governing Council with advice and recommendations in order to support the Governing Council's decision-making process respecting the financial administration of Metlakatla.

(2) The Governing Council shall appoint three (3) members of the Finance and Audit Committee, a majority of whom shall have financial competency, all of whom shall be independent, and at least two (2) of whom shall be Councillors.

(3) For purposes of this section, an individual is considered to be independent if the individual does not have a direct or indirect financial relationship with Metlakatla government that could, in the opinion of the Governing Council, reasonably interfere with the exercise of independent judgment as a member of the Finance and Audit Committee.

(4) The Governing Council shall establish policies or procedures or give directions

(a) setting criteria to determine if an individual is eligible to be a member of the Finance and Audit Committee and is independent;

(b) requiring confirmation, before appointment, that each potential member of the Finance and Audit Committee is eligible to be a member and is independent; and

(c) requiring each member of the Finance and Audit Committee annually to sign a statement confirming that the member continues to meet the criteria referred to in paragraph (a).

(5) Subject to subsections (6) and (7), the Finance and Audit Committee members shall be appointed to hold office for staggered terms of not less than three (3) complete fiscal years.

(6) A Finance and Audit Committee member may be removed from office by the Governing Council if

(a) the member has unexcused absences from three (3) scheduled meetings of the Finance and Audit Committee; or

(b) the Chair recommends removal, based on unprofessional conduct, or based on a breach of this Law, another Metlakatla law, or the oath of office.

(7) If a Finance and Audit Committee member is removed from office, resigns or dies before the member's term of office expires, the Governing Council shall as soon as practicable appoint a new Finance and Audit Committee member to hold office for the remainder of the first member's term of office.

(8) If a Finance and Audit Committee member is unable to attend or participate in a Finance and Audit Committee meeting due to personal circumstances or a conflict of interest, and the member's absence will leave the Finance and Audit Committee without a quorum, the Council may appoint an alternate member to participate as needed, provided that the person appointed as an alternate member

- (a) is a Councillor; and
- (b) satisfies all of the requirements set out in this Law for being a member of the Finance and Audit Committee.

Chair and Vice-chair

12. The Governing Council shall appoint a chair and a vice-chair of the Finance and Audit Committee, both of whom shall be Councillors.

Finance and Audit Committee Procedures

13.(1) The quorum of the Finance and Audit Committee is three (3) members.

(2) Except where a Finance and Audit Committee member is not permitted to participate in a decision because of a conflict of interest, every Finance and Audit Committee member has one (1) vote in all Finance and Audit Committee decisions.

(3) Subject to subsection (4), the senior manager and the senior financial administrator shall be notified of all Finance and Audit Committee meetings and, subject to reasonable exceptions, shall attend those meetings.

(4) The senior manager or the senior financial administrator may be excluded from all or any part of a Finance and Audit Committee meeting by a recorded vote if

- (a) the subject matter relates to a confidential personnel or performance issue respecting the senior manager or the senior financial administrator; or
- (b) it is a meeting with the auditor.

(5) The Finance and Audit Committee shall meet

- (a) at least once every quarter in each fiscal year as necessary to conduct the business of the Finance and Audit Committee; and
- (b) as soon as practical after it receives the audited annual financial statements and report from the auditor.

(6) The Finance and Audit Committee shall provide minutes of its meetings to the Governing Council and report to the Governing Council on the substance of each Finance and Audit Committee meeting as soon as practicable after each meeting.

(7) Subject to this Law and any directions given by the Governing Council, the Finance and Audit Committee may make rules for the conduct of its meetings.

(8) After consultation with the senior manager, the Finance and Audit Committee may retain a consultant to assist in the performance of any of its responsibilities.

Financial Planning Responsibilities

14.(1) The Finance and Audit Committee shall carry out the following activities in respect of the financial administration of Metlakatla:

- (a) annually reviewing, and recommending to the Governing Council for approval, multi-year financial plans;
- (b) reviewing draft annual budgets and recommending them to the Governing Council for approval;
- (c) on an ongoing basis, monitoring the financial performance of Metlakatla against the annual budget and reporting any significant variations to the Governing Council; and
- (d) reviewing the quarterly financial statements and recommend them to the Governing Council for approval.

(2) The Finance and Audit Committee may make a report or recommendations to the Governing Council on any matter respecting the financial administration of Metlakatla that is not otherwise specified to be its responsibility under this Law.

Audit Responsibilities

15. The Finance and Audit Committee shall carry out the following audit activities in respect of the financial administration of Metlakatla:

- (a) making recommendations to the Governing Council on the selection, engagement and performance of an auditor;
- (b) receiving assurances on the independence of a proposed or appointed auditor;
- (c) reviewing and making recommendations to the Governing Council on the planning, conduct and results of audit activities;
- (d) reviewing and making recommendations to the Governing Council on the audited annual financial statements and any special purpose reports, including audited annual financial statements respecting the local revenue account, if required in accordance with the *Local Revenue Account Financial Reporting Standards*;
- (e) periodically reviewing and making recommendations to the Governing Council on policies, procedures and directions on reimbursable expenses and benefits of the Councillors, officers and employees of Metlakatla;
- (f) monitoring financial reporting risks and fraud risks and the effectiveness of mitigating controls for those risks taking into consideration the cost of implementing those controls;
- (g) conducting a review of this Law under section 102 and, where appropriate, recommending amendments to the Governing Council; and
- (h) periodically reviewing and making recommendations to the Governing Council on the terms of reference of the Finance and Audit Committee.

Governing Council Assigned Responsibilities

16. The Governing Council may assign to the Finance and Audit Committee the following activities in respect of the financial administration of Metlakatla:

- (a) recommending to the Governing Council for approval, performance measurements and goals designed to confirm that management activities, including financial management, occur as planned;
- (b) recommending to the Governing Council for approval, cash management plans;
- (c) reviewing and reporting to the Governing Council on the financial content of any Metlakatla reports;
- (d) reviewing, monitoring and reporting to the Governing Council on the appropriateness of Metlakatla's accounting and financial reporting systems, policies and practices;
- (e) reviewing, and recommending to the Governing Council for approval, any proposed significant changes in Metlakatla's accounting or financial reporting systems, policies, procedures or directions;
- (f) monitoring the collection and receipt of Metlakatla financial assets, including debts owed to Metlakatla;
- (g) reviewing and reporting to the Governing Council on Metlakatla's risk management policies and control and information systems and, where appropriate, recommending improvements to the Governing Council;
- (h) reviewing the adequacy of security of information, information systems and recovery plans and, where appropriate, recommending improvements to the Governing Council;
- (i) monitoring compliance with the legal obligations of Metlakatla, including legislative, regulatory and contractual obligations, and reporting to the Governing Council;
- (j) reviewing and reporting to the Governing Council on the adequacy of financial administration personnel and resources;
- (k) reviewing, monitoring and reporting to the Governing Council on the adequacy and appropriateness of Metlakatla's insurance coverage respecting significant Metlakatla risks; and
- (l) reviewing, monitoring and report to the Governing Council on material litigation and its impact on financial administration and reporting.

DIVISION 3 - Officers and Employees

Senior Manager

17.(1) The Governing Council shall appoint a person as senior manager of Metlakatla and may set the terms and conditions of that appointment.

(2) Reporting to the Governing Council, the senior manager is responsible for leading the planning, organization, implementation and evaluation of the overall management of all the day-to-day operations of Metlakatla, including the following duties:

- (a) overseeing, supervising and directing the activities of all officers and employees of Metlakatla;
- (b) preparing, and recommending to the Council for approval, descriptions of the powers, duties and functions of all employees of Metlakatla;
- (c) overseeing and administering the contracts of Metlakatla;
- (d) identifying, assessing, monitoring and reporting on financial reporting risks and fraud risks; and
- (e) monitoring and reporting on the effectiveness of mitigating controls for the risks referred to in paragraph (c) taking into consideration the cost of implementing those controls.

(3) The senior manager may assign the performance of any of the senior manager's duties or functions to an officer or employee of Metlakatla.

(4) Any assignment of duties or functions under subsection (3) does not relieve the senior manager of the responsibility to ensure that these duties or functions are carried out properly.

Senior Financial Administrator

18.(1) The Governing Council shall appoint a person as senior financial administrator of Metlakatla and may set the terms and conditions of that appointment.

(2) Reporting to the senior manager, the senior financial administrator is responsible for the day-to-day management of the systems of the financial administration of Metlakatla, including the following duties:

- (a) ensuring that the financial administration systems, policies, procedures, directions and internal controls are appropriately designed and operating effectively;
- (b) administering and maintaining all charts of accounts of Metlakatla;
- (c) preparing the draft annual budgets and, with advice and input from the tax administrator, preparing any draft amendments to the component of the annual budget respecting Metlakatla's local revenue account;
- (d) preparing the monthly financial information required in section 69, the quarterly financial statements required in section 70, and the draft annual financial statements required in section 71;
- (e) preparing the financial components of reports to the Governing Council and of the multi-year financial plans referred to in subsection 14(1);
- (f) actively monitoring compliance with any agreements and funding arrangements entered into by Metlakatla;
- (g) administering and supervising the preparation and maintenance of financial records and the financial administration reporting systems;
- (h) actively monitoring compliance with the FMA, this Law, any other applicable Metlakatla law, applicable standards and any policies, procedures and directions of the Governing Council respecting the financial administration of Metlakatla;

- (i) evaluating the financial administration systems of Metlakatla and recommending improvements;
- (j) developing and recommending procedures for the safeguarding of assets and ensuring approved procedures are followed; and
- (k) developing and recommending procedures to Governing Council for identifying and mitigating financial reporting and fraud risks and ensuring approved procedures are followed.

(3) With the approval of the senior manager, the senior financial administrator may assign the performance of any of the duties or functions of the senior financial administrator to any officer, employee, contractor or agent of Metlakatla, but this assignment does not relieve the senior financial administrator of the responsibility to ensure that these duties or functions are carried out properly.

Tax Administrator

19.(1) Reporting to the senior financial administrator, the tax administrator is responsible for performing the tax administrator's duties or functions under Metlakatla's local revenue laws, the FMA and this Law.

(2) In addition to any duties or functions under Metlakatla's local revenue laws and the FMA, the tax administrator is responsible for the following:

- (a) managing local revenues and the local revenue account on a day-to-day basis;
- (b) recommending to the senior financial administrator the draft and amended budgets for the component of the annual budget respecting local revenues;
- (c) recommending to the senior financial administrator the local revenues components of the multi-year financial plan;
- (d) on request, providing advice to the senior manager, senior financial administrator, Finance and Audit committee and the Governing Council respecting local revenues matters; and
- (e) monitoring compliance with the FMA, Metlakatla's local revenue laws and this Law in the administration of local revenues and the local revenue account.

(3) With the approval of the senior manager, the tax administrator may assign the performance of any of the duties or functions of the tax administrator to any officer, employee, contractor or agent of Metlakatla, but this assignment does not relieve the tax administrator of the responsibility to ensure that these duties or functions are carried out properly.

Organizational Structure

20.(1) The Governing Council shall establish and maintain a current organization chart for the governance, management and administrative systems of Metlakatla that includes the following information:

- (a) all governance, management and administrative systems of Metlakatla;
- (b) the organization of the systems described in paragraph (a), including the linkages between them;

- (c) the specific roles and responsibilities of each level of the organization of the systems described in paragraph (a); and
 - (d) all governance, management and administrative positions at each level of the organization of the systems described in paragraph (a), including
 - (i) the membership on the Governing Council, Finance and Audit Committee and all other committees of the Governing Council and Metlakatla,
 - (ii) the senior manager, the senior financial administrator, the tax administrator and other officers of Metlakatla, and
 - (iii) the principal lines of authority and the responsibility between the Governing Council, the committees referred to in subparagraph (i) and the officers referred to in subparagraph (ii).
- (3) On request, the senior manager shall provide a copy of the organization chart under subsection (1) to a Councillor, a member of a committee referred to in subparagraph (2)(d)(i), an officer, employee or contractor or agent of Metlakatla and a Metlakatla member.
- (4) In the course of discharging his or her responsibilities under this Law, the senior manager shall recommend to the Governing Council for approval and implementation human resource policies and procedures that facilitate effective internal financial administration controls.
- (5) The Governing Council shall take all reasonable steps to ensure that Metlakatla hires or retains qualified and competent personnel to carry out the financial administration activities of Metlakatla.

DIVISION 4 - Conduct Expectations

Conduct of Councillors

- 21.(1) When exercising a power, duty or responsibility relating to the financial administration of Metlakatla, a Councillor shall
- (a) comply with this Law, the FMA, any other applicable Metlakatla law and any applicable standards;
 - (b) act honestly, in good faith and in the best interests of Metlakatla;
 - (c) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances; and
 - (d) avoid conflicts of interest and comply with the requirements of the COIR.
- (2) If it has been determined under this Law or by a court of competent jurisdiction that a Councillor has contravened this section,
- (a) the Councillor shall be removed from the Finance and Audit Committee in accordance with paragraph 11(6)(b), if applicable; and
 - (b) Metlakatla may use any legal means available to it to remedy the situation.

Conduct of Officers, Employees, Contractors, and Agents

22.(1) This section applies to

- (a) an officer, employee, contractor and agent of Metlakatla;
- (b) a person acting under the delegated authority of the Governing Council or Metlakatla; or
- (c) a member of a committee of the Governing Council or Metlakatla who is not a Councillor.

(2) If a person is exercising a power, duty or responsibility relating to the financial administration of Metlakatla, that person shall

- (a) comply with this Law, the FMA, any other applicable Metlakatla law and any applicable standards;
- (b) comply with all policies, procedures and directions of the Governing Council; and
- (c) avoid conflicts of interest and comply with any applicable requirements of the COIR, including required disclosure of potential conflicts of interest.

(3) The Governing Council shall incorporate the relevant provision of this section into

- (a) the terms of employment or appointment of every officer or employee of Metlakatla;
- (b) the terms of every contract of a contractor of Metlakatla;
- (c) the terms of appointment of every member of a committee who is not a Councillor; and
- (d) the terms of appointment of every agent of Metlakatla.

(4) If a person contravenes subsection (2), the following actions may be taken:

- (a) an officer or employee may be disciplined, including dismissal, in accordance with the HR manual;
- (b) a contractor's contract may be terminated;
- (c) the appointment of a member of a committee may be revoked;
- (d) the appointment of an agent may be revoked; and
- (e) Metlakatla may use any legal means available to it to remedy the situation.

PART IV - Financial Management

DIVISION 1 - Financial Plans and Annual Budgets

Fiscal Year

23. The fiscal year of Metlakatla is April 1 to March 31 of the following year.

Multi-year Financial Plan

24. No later than March 31 of each year, the Governing Council shall approve a multi-year financial plan that

- (a) has a planning period of five (5) years comprised of the current fiscal year and the four (4) succeeding fiscal years;
- (b) is based on the projections of revenues, expenditures and transfers between accounts;
- (c) sets out projected revenues, segregated by significant category;
- (d) sets out projected expenditures, segregated by significant category;
- (e) in respect of transfers between accounts, sets out the amounts from the tangible capital asset reserve account;
- (f) shows all categories of restricted cash;
- (g) indicates whether in any of the five (5) years of the plan a deficit or surplus is expected from the projection of revenues and expenditures for that year; and
- (h) aligns with the strategic plan approved by the Governing Council.

Content of Annual Budget

25.(1) The annual budget shall encompass all the operations for which Metlakatla is responsible and shall identify

- (a) anticipated revenues, segregated by significant category, with estimates of the amount of revenue from each category;
- (b) anticipated expenditures, segregated by significant category, with estimates of the amount of expenditure for each category; and
- (c) any anticipated annual and accumulated surplus or annual and accumulated deficit and the application of year-end surplus.

(2) The revenue category of moneys derived from Metlakatla lands shall be shown separately in the annual budget from other revenues and shall include a sub-category for revenues from natural resources obtained from Metlakatla lands.

Budget and Planning Process Schedule

26.(1) On or before February 15 of each year, the senior financial administrator shall prepare and submit to the Finance and Audit Committee for review a draft annual budget and a draft multi-year financial plan for the next fiscal year.

(2) On or before February 28 of each year, the Finance and Audit Committee shall review

- (a) the draft annual budget and recommend an annual budget to the Governing Council for approval; and

(b) the draft multi-year financial plan and recommend a multi-year financial plan to the Governing Council.

(3) On or before March 31 of each year, the Governing Council shall review and approve the annual budget for Metlakatla for the next fiscal year.

(4) In the event that there is a material change in the forecasted revenues or expenditures respecting local revenues,

(a) the senior financial administrator, in consultation with the tax administrator, shall prepare and submit to the Finance and Audit Committee for review a draft amendment of the component of the annual budget respecting Metlakatla's local revenue account, on or before June 15;

(b) the Finance and Audit Committee shall review the draft amendment of the component of the annual budget respecting Metlakatla's local revenue account and recommend an amendment to the annual budget to the Governing Council for approval, on or before June 30; and

(c) the Governing Council shall approve the amendment of the component of the annual budget respecting Metlakatla's local revenue account, on or before July 15.

Additional Requirements for Budget Deficits

27.(1) Except in exceptional circumstances, the draft annual budget shall not contain a proposed deficit.

(2) If, under exceptional circumstances, a draft annual budget contains a proposed deficit, the Governing Council shall ensure that

(a) no portion of the proposed deficit originates in or relates to the local revenue account;

(b) the multi-year financial plan of Metlakatla demonstrates how and when the deficit shall be addressed and how it shall be serviced; and

(c) the deficit does not have a negative impact on the credit worthiness of Metlakatla.

Amendments to Annual Budgets

28.(1) The annual budget of Metlakatla shall not be changed without the approval of the Governing Council.

(2) Subject to paragraph 26(4)(c) and section 36, unless there is a substantial change in the forecasted revenues or expenses of Metlakatla or in the expenditure priorities of the Governing Council, the Governing Council shall not approve a change to the annual budget of Metlakatla.

(3) For clarity, transfers of revenues and expenditures within and between programs and departments during the fiscal year do not require an amendment to the annual budget, so long as they do not result in a net change to the annual budget.

Local Revenue Account Budget Requirements

29. Despite any other provisions of this Law, any part of a budget relating to the local revenue account shall be prepared, approved and amended in accordance with applicable provisions of the FMA and of the FNTC standards.

Policy for Metlakatla Information or Involvement

30.(1) The Governing Council shall post a public notice when each of the following is presented for Governing Council approval:

- (a) the multi-year financial plan;
- (b) the annual budget, including any component of the annual budget respecting Metlakatla's local revenue account;
- (c) an amendment to the annual budget;
- (d) annual budget deficits or extraordinary expenditures;
- (e) capital projects;
- (f) borrowing for new capital projects; and
- (g) proposed amendments to this Law.

(2) A notice provided under subsection (1) shall state whether and how Metlakatla members may be involved in the decision under consideration.

DIVISION 2 - Financial Institution Accounts

Financial Institution Accounts

31.(1) No account may be opened for the receipt and deposit of money of Metlakatla unless the account is

- (a) in the name of Metlakatla;
- (b) opened in a financial institution; and
- (c) approved by resolution of the Governing Council.

(2) Metlakatla shall establish the following accounts in a financial institution:

- (a) a general account for money from any sources other than those described in paragraphs (b) to (e);
- (b) a local revenue account for money from local revenues;
- (c) a trust account if Metlakatla has money held in trust;
- (d) a land and resources account for money from revenues from Metlakatla lands; and

(e) a tangible capital asset reserve account for money set aside for purposes of section 87.

(3) Metlakatla may establish any other accounts not referred to in subsection (2) as may be necessary and appropriate to manage Metlakatla financial assets.

Accounts Management

32.(1) The senior financial administrator shall take all reasonable steps to ensure the safekeeping of all money received by Metlakatla.

(2) The senior financial administrator

(a) shall deposit all money received by Metlakatla as soon as practicable into the appropriate accounts described in section 31; and

(b) shall not authorize payment of money from an account described in section 31 unless the payment relates to the subject matter for which the account was established and is otherwise authorized or permitted under this Law.

DIVISION 3 - Expenditures

Prohibited Expenditures

33.(1) Money or financial assets in a trust account shall not be used for a purpose other than that permitted under the terms of the trust.

(2) Money in a local revenue account shall not be used for any purpose other than that permitted under a local revenue law.

(3) Money in a tangible capital asset reserve account shall not be used for any purpose other than that described in Part V.

Prohibited Agreements

34. Metlakatla shall not enter into an agreement or undertaking that requires Metlakatla to expend money that is not authorized by or that contravenes this Law.

No Expenditure Without Appropriation

35.(1) Subject to subsection 36(1), money shall not be paid out of any account unless the expenditure is authorized under an appropriation.

(2) Subsection (1) does not apply to expenditures from a trust account where the expenditure is authorized under the terms of the trust.

Emergency Expenditures

36.(1) The senior manager may approve an expenditure for an emergency purpose that was not anticipated in the annual budget if the expenditure is not expressly prohibited by or under this Law or another Metlakatla law.

(2) The Governing Council shall establish an emergency preparedness plan and an emergency budget allocation plan to authorize expenditures under subsection (1).

(3) Subsection (1) does not give the senior manager the authority to borrow for the purpose of making an expenditure for an emergency purpose.

(4) For clarity, this section does not permit an expenditure from the local revenue account.

Appropriations

37.(1) An amount that is appropriated in a budget shall not be expended for any purpose other than that described in the appropriation.

(2) The total amount expended by Metlakatla in relation to an appropriation shall not exceed the amount specified in the budget for Metlakatla for that appropriation.

(3) Every person who is responsible for managing an appropriation shall establish and maintain a current record of commitments chargeable to that appropriation.

Payments after Fiscal Year-end

38.(1) Money appropriated in a budget for a fiscal year shall not be expended after the end of the fiscal year except to discharge a liability incurred in that fiscal year.

(2) If the liabilities for an appropriation under subsection (1) exceed the unexpended balance of the appropriation at the end of the fiscal year, the excess shall be

- (a) charged against a suitable appropriation for the following fiscal year; and
- (b) reported in the financial statements for the fiscal year in which the liability was incurred.

Requisitions for Payment

39.(1) No money may be paid out of any account without a requisition for payment as required under this section.

(2) No requisition may be made or given for a payment of money unless it is a lawful charge against an appropriation or an authorized use of money in a trust.

(3) No requisition may be made or given for payment of money that results in expenditures from a trust account in excess of the unexpended balance of the trust account.

(4) No requisition may be made or given for payment of money that reduces the balance available in an appropriation or trust account so that it is not sufficient to meet the commitments chargeable against it.

(5) A requisition may apply to one or more expenditures chargeable against one or more appropriations.

(6) A requisition shall identify the appropriation or trust account out of which payment is to be made and shall include a statement certifying that the expenditure is not prohibited under this section and that it is

- (a) in accordance with the appropriation identified in the certified statement; or
- (b) allowed without the authority of an appropriation under this Law.

(7) If a requisition is for the payment of performance of work or services or the supply of goods, the requisition shall include a statement certifying that

- (a) the work or services have been performed or the goods supplied, any conditions in an agreement respecting the work, services or goods have been met and the price charged or amount to be paid is in accordance with an agreement or, if not specified by agreement, is reasonable; or
- (b) if payment is to be made before completion of the work or services, delivery of the goods or satisfaction of any conditions in an agreement, the payment is in accordance with the agreement.

(8) The senior manager or the senior financial administrator shall authorize payment out of, or sign a requisition for payment from, a trust account.

(9) The tax administrator shall authorize payment out of a local revenue account.

(10) Subject to subsection (9), the senior manager or senior financial administrator may authorize a payment out of, or sign a requisition for payment from, any appropriation.

(11) Subject to subsections (8) and (9), a person who is responsible for managing an appropriation may authorize payment out of, or sign a requisition for payment from, the appropriation.

Cash Management

40. The Governing Council shall make policies or procedures or give directions respecting effective cash management.

Procurement of Services

41. The Governing Council shall make policies or procedures or give directions respecting internal controls for the procurement of goods and services.

DIVISION 4 - General Matters

Advances

42.(1) The senior manager or the senior financial administrator may approve an advance to prepay expenses that are chargeable against an appropriation in the current fiscal year or an appropriation in the next fiscal year.

(2) The tax administrator may approve an advance to prepay expenses that are chargeable against an appropriation from the local revenue account in the current fiscal year or an appropriation from that account in the next fiscal year.

Holdbacks

43. If Metlakatla withholds an amount payable under an agreement, the payment of the amount withheld shall be charged to the appropriation from which the agreement shall be paid even if the fiscal year for which it was appropriated has ended.

Deposit Money

44.(1) Money received by Metlakatla as a deposit to ensure the doing of any act or thing shall be held and disposed of in accordance with

- (a) the agreement under which the deposit has been paid; and
- (b) in the absence of any provisions respecting that matter, any policy or directions of the Governing Council.

(2) The Governing Council shall make policies or procedures or give directions in respect of the disposition of deposit money referred to in subsection (1).

Interest

45.(1) All interest earned on the accounts described in subsection 31(2), other than a trust account, local revenue account, or tangible capital asset reserve account shall be deposited in the general account referred to in paragraph 31(2)(a).

(2) All interest earned on

- (a) a trust account shall be retained in that account;
- (b) the local revenue account shall be retained in that account; and
- (c) the tangible capital asset reserve account shall be retained in that account.

(3) Subject to the *Interest Act*, Metlakatla may charge interest at a rate set from time to time by the Governing Council on any debts or payments owed to Metlakatla that are overdue.

Refunds

46.(1) Money received by Metlakatla that is paid or collected in error or for a purpose that is not fulfilled may be refunded in full or in part as circumstances require.

(2) The Governing Council shall establish policies and procedures respecting the refund of money under subsection (1).

Write Off of Debts

47.(1) All or part of a debt or obligation owed to Metlakatla may be written off

- (a) if approved by the Governing Council; or
- (b) if done under the authority of a policy or direction of the Governing Council.

(2) The write off of all or part of a debt or obligation under this section does not extinguish the right of Metlakatla to collect the amount or liability written off.

Year-end Surplus

48.(1) Subject to subsections (2) and (3), an operating surplus at the end of the fiscal year shall be paid into the general account described in paragraph 31(2)(a).

(2) An operating surplus in the local revenue account at the end of the fiscal year shall be retained in that account.

(3) An operating surplus in the tangible capital asset reserve account at the end of the fiscal year shall be retained in that account.

DIVISION 5 - Borrowing

Limitations on Borrowing

49.(1) Except as specifically authorized in this Law or in a local revenue law, Metlakatla shall not borrow money or grant security.

(2) Subject to this Law, if Metlakatla is authorized in this Law to borrow money or grant security, the Governing Council may authorize the senior financial administrator to borrow money or grant security in the name of Metlakatla

(a) as specifically approved by the Governing Council by resolution; or

(b) in accordance with the policies, procedures or directions made by the Governing Council.

Borrowing for Ordinary Operations

50.(1) Metlakatla may incur trade accounts or other current liabilities payable within normal terms of trade for expenditures provided for in the budget for the fiscal year if the debt shall be repaid from money appropriated under an appropriation for the fiscal year or is in respect of an expenditure that may be made without the authority of an appropriation under this Law.

(2) Metlakatla may enter into agreements with financial institutions for overdrafts or lines of credit and, for the purpose of securing any overdrafts or lines of credit, may grant security to the financial institution in a form, amount, and on terms and conditions that the Governing Council approves.

(3) Metlakatla may enter into a general security agreement or a lease for the use or acquisition of lands, materials or equipment required for the operation, management or administration of Metlakatla.

Financial Agreements

51. The Governing Council may enter into the following agreements in the name of Metlakatla:

(a) for the purpose of efficient management of Metlakatla financial assets, agreements with financial institutions and related services agreements; and

(b) for the purpose of reducing risks or maximizing benefits in relation to the borrowing, lending or investing of Metlakatla financial assets, agreements with financial institutions respecting currency exchange, spot and future currency, interest rate exchange and future interest rates.

Borrowing for Authorized Expenditures

52.(1) If the general account described in paragraph 31(2)(a) is not sufficient to meet the expenditures authorized to be made from it and the senior financial administrator recommends that money be borrowed to ensure that the general account is sufficient for these purposes, Metlakatla may borrow an amount not exceeding a maximum amount specified by the Governing Council and to be repaid within a specified period of time.

(2) Despite the repayment terms specified in subsection (1), if the money borrowed under subsection (1) is no longer required for the purpose for which it was borrowed, the money shall be repaid as soon as possible.

Borrowing Member Requirements

53.(1) If Metlakatla is a borrowing member, then it may only obtain long-term financing secured by property tax revenues from the FNFA, as permitted under its local revenue laws and the FMA.

(2) Money borrowed under subsection (1) may only be used for the purposes permitted under the FMA.

(3) Money borrowed by Metlakatla from the FNFA that is secured by other revenues may only be used for the purposes set out in section 4 of the *Financing Secured by Other Revenues Regulations* made under the FMA.

Borrowing for Repayment of Debts

54. Subject to this Law and a local revenue law, Metlakatla may borrow money that is required for the repayment or refinancing of any debt of Metlakatla, other than a debt in relation to money borrowed under subsection 52(1).

Use of Borrowed Money

55.(1) Subject to this section and any local revenue law, money borrowed by Metlakatla for a specific purpose shall not be used for any other purpose.

(2) All or some of the money borrowed for a specific purpose by Metlakatla and not required to be used immediately for that purpose may be temporarily invested under subsection 61(1) until required for that purpose.

(3) If some of the money borrowed for a specific purpose is no longer required for that purpose, that money shall be applied to repay the debt from the borrowing.

Execution of Security Documents

56.(1) Subject to subsection (2), a security granted by Metlakatla shall be signed by

- (a) a Councillor designated by the Governing Council; and
- (b) the senior manager.

(2) A security granted by Metlakatla in respect of local revenues shall be signed by a Councillor designated by the Governing Council and by the tax administrator.

Operational Controls

57. The Governing Council shall establish policies or procedures or give directions respecting the establishment and implementation of an effective system of internal controls that ensures the orderly and efficient conduct of Metlakatla's operations.

DIVISION 6 - Risk Management

Limitation on Business Activity

- 58.(1) Subject to subsections (2) and (3), Metlakatla shall not
- (a) carry on business as a proprietor;
 - (b) acquire an interest in a partnership as a general partner; or
 - (c) act as a trustee respecting property used for, or held in the course of, carrying on a business.
- (2) Metlakatla may carry on a business that
- (a) is ancillary or incidental to the provision of programs or services or other functions of Metlakatla governance; or
 - (b) derives income from the granting of a lease or licence of or is in respect of
 - (i) an interest in, or natural resources on or under, Metlakatla lands or lands owned in fee simple by, or in trust for, Metlakatla, or
 - (ii) any other property of Metlakatla.
- (3) Metlakatla may carry on business activities for the primary purpose of profit if the Governing Council determines that the business activities
- (a) do not result in a material liability for Metlakatla; or
 - (b) do not otherwise expose Metlakatla financial assets, property or resources to significant risk.
- (4) The Governing Council may impose terms and conditions on the conduct of any business activity permitted under this section in order to manage any risks associated with that activity.

Guarantees and Indemnities

59.(1) Metlakatla shall not give a guarantee unless the Governing Council has considered the report of the senior financial administrator under subsection (2).

(2) Before the Governing Council authorizes a guarantee under subsection (1), the senior financial administrator shall prepare a report for Governing Council identifying any risks associated with giving the guarantee and assessing the ability of Metlakatla to honour the guarantee should it be required to do so.

- (3) Metlakatla shall not give an indemnity unless it is
- (a) authorized under section 101;

- (b) necessary and incidental to and included in another agreement to which Metlakatla is a party; or
- (c) in relation to a security granted by Metlakatla that is authorized under this Law or another Metlakatla law.

(4) Subject to a resolution described in section 101, the Governing Council shall make policies and directions respecting guarantees and indemnities as follows:

- (a) specifying circumstances under which an indemnity may be given without Governing Council approval;
- (b) designating the persons who may give an indemnity on behalf of Metlakatla and specifying the maximum amount of any indemnity which may be given by them;
- (c) specifying any terms or conditions under which a guarantee or indemnity may be given; and
- (d) specifying the records to be maintained of all guarantees and indemnities given by Metlakatla.

Authority to Invest

60.(1) Except as specifically authorized in this Law or another Metlakatla law, Metlakatla shall not invest Metlakatla financial assets.

(2) If Metlakatla is authorized in this Law to invest Metlakatla financial assets, the Governing Council may authorize the senior financial administrator to invest Metlakatla financial assets

- (a) as specifically approved by the Governing Council; or
- (b) in accordance with the policies, procedures or directions made by the Governing Council.

Approved Investments

61.(1) Money in an account described in section 31 that is not immediately required for expenditures may be invested by Metlakatla in one or more of the following:

- (a) securities issued or guaranteed by Canada, a province or the United States of America;
- (b) fixed deposits, notes, certificates and other short-term paper of, or guaranteed by, a financial institution, including swaps in United States of America currency;
- (c) securities issued by the FNFA or by a local, municipal or regional government in Canada;
- (d) commercial paper issued by a Canadian company that is rated in the highest category by at least two (2) recognized security-rating institutions;
- (e) any investments a trustee may make under an enactment of a province relating to trustees; or
- (f) any other investments or class of investments prescribed by a regulation under the FMA.

(2) Subject to the terms of the trust, money held in trust that is not immediately required for expenditures may be invested by Metlakatla as permitted under the terms of the trust or under the laws of the jurisdiction in which the majority of Metlakatla lands are located.

(3) If Metlakatla has established an investment account under section 31, Metlakatla may invest money in that account in

- (a) a company that is incorporated under the laws of Canada or of a province or territory and in which Metlakatla is a shareholder;
- (b) a trust in which Metlakatla is a beneficiary; or
- (c) a limited partnership in which Metlakatla is a partner.

(4) Despite any other provision in this section, Metlakatla may only invest the following in investments specified in subsection 82(3) of the FMA and in investments in securities issued by the FNFA:

- (a) government transfer funds;
- (b) local revenues; and
- (c) other revenues, if Metlakatla has a loan from the FNFA secured by other revenues.

Loans

62.(1) Metlakatla shall not make a loan to any individual.

(2) Metlakatla may only make a loan to an entity if the loan:

- (a) has been approved by the Governing Council; and
- (b) meets the requirements of this section.

(3) Before the Governing Council makes a loan to an entity under this section, the senior financial administrator shall prepare a report for the Governing Council identifying

- (a) any risks associated with the loan; and
- (b) the costs of administering the loan.

(4) A loan referred to in subsection (2) shall satisfy the following criteria:

- (a) the following details of the loan shall be included in the annual report:
 - (i) the amount loaned,
 - (ii) the purpose of the loan,
 - (iii) subject to applicable privacy laws, the name of the entity receiving a loan, and
 - (iv) repayments of principal and interest on the loan; and

(b) the loan shall be recorded in a written agreement between Metlakatla and the entity that provides for proper security for repayment and sets out the terms for repayment of principal and interest.

(5) The Governing Council may make policies or procedures or give directions respecting loans to entities under this section.

Administration of Investments and Loans

63.(1) If Metlakatla is authorized to make an investment or loan under this Law, the senior financial administrator may do all things necessary or advisable for the purpose of making, continuing, exchanging or disposing of the investment or loan.

(2) If Metlakatla is authorized to make a loan under this Law, the Governing Council shall establish policies or procedures or give directions respecting the terms and conditions under which loans may be made, including a requirement that all loans be recorded in a written agreement that provides for proper security for repayment and sets out the terms for repayment of principal and interest.

Risk Assessment and Management

64.(1) Annually, and more often if necessary, the senior manager shall identify and assess any significant risks to Metlakatla financial assets, Metlakatla's tangible capital assets as defined in Part V and the operations of Metlakatla.

(2) Annually, and more often if necessary, the senior manager shall report to the Finance and Audit Committee on proposed plans to mitigate the risks identified in subsection (1) or, where appropriate, to manage or transfer those risks by agreement with others or by purchasing insurance.

Insurance

65.(1) On recommendation of the Finance and Audit Committee, the Governing Council shall procure and maintain in force all insurance coverage that is appropriate and commensurate with the risks identified in section 64 and any other risks associated with any assets, property or resources under the care or control of Metlakatla.

(2) The Governing Council may purchase and maintain insurance for the benefit of a Councillor or an officer or their personal representatives against any liability arising from that person being or having been a Councillor or an officer.

Fraud Risks

66. The Governing Council shall establish procedures for the identification and assessment of the following types of potential fraud in Metlakatla:

- (a) intentional acts in financial reporting that are designed to deceive the users of the financial reports, and which may result in a material omissions from or misstatements of financial reports;
- (b) intentional acts in non-financial reporting that are designed to deceive the users of the non-financial reports;
- (c) thefts of Metlakatla assets in circumstances where the thefts may result in material omissions from or misstatements in financial reports; and
- (d) corruption and illegal acts.

DIVISION 7 - Financial Reporting

GAAP

67. All accounting practices of Metlakatla shall comply with GAAP.

Separate Accounting

68.(1) The senior financial administrator shall account for local revenues of Metlakatla separately from other moneys of Metlakatla.

(2) If Metlakatla has a loan from the FNFA that is secured by other revenues, the senior financial administrator shall

- (a) account for all other revenues of Metlakatla separately from other moneys of Metlakatla; and
- (b) provide the FNFA or the FMB, on its request, with accounting information respecting the other revenues.

Monthly Financial Information

69. Not more than forty-five (45) days following the end of each month, the senior financial administrator shall prepare, and provide to the Governing Council and the Finance and Audit Committee, financial information respecting the financial affairs of Metlakatla in the form and with the content approved by the Governing Council on the recommendation of the Finance and Audit Committee.

Quarterly Financial Statements

70.(1) Not more than thirty (30) days following the end of each quarter of the fiscal year, the senior financial administrator shall prepare, and provide to the Governing Council and the Finance and Audit Committee, financial statements for Metlakatla for that quarter in the form and with the content approved by the Governing Council on the recommendation of the Finance and Audit Committee.

(2) No later than forty-five (45) days after the end of each quarter, the quarterly financial statements in subsection (1) shall be

- (a) reviewed by the Finance and Audit Committee and recommended to Governing Council for approval; and
- (b) reviewed and approved by the Governing Council.

Annual Financial Statements

71.(1) This section does not apply to the annual financial statements respecting the local revenue account referred to in subsection 72(1).

(2) At the end of each fiscal year the senior financial administrator shall prepare the annual financial statements of Metlakatla for that fiscal year in accordance with GAAP and to a standard that is at least comparable to that generally accepted for governments in Canada.

(3) The annual financial statements shall be prepared in a form approved by the Governing Council on the recommendation of the Finance and Audit Committee.

(4) The annual financial statements shall include the following information:

- (a) the financial information of Metlakatla for the fiscal year; and
- (b) the revenue categories for Metlakatla lands referred to in subsection 25(2).

(5) The senior financial administrator shall provide draft annual financial statements to the Finance and Audit Committee for review within forty-five (45) days following the end of the fiscal year for which they were prepared.

(6) The Finance and Audit Committee shall present draft annual financial statements to the Governing Council for review within sixty (60) days following the end of the fiscal year for which they were prepared.

Local Revenue Account Annual Financial Statements

72.(1) The senior financial administrator shall prepare separate annual financial statements respecting the local revenue account in accordance with FMB standards respecting financial reporting of the local revenue account.

(2) Despite subsection (1), the Governing Council may authorize the senior financial administrator to prepare annual financial information respecting the local revenue account in any other form permitted in FMB standards respecting financial reporting of the local revenue account.

Special Purpose Reports

73. The senior financial administrator shall prepare the following special purpose reports:

- (a) a report setting out all payments made to honour guarantees and indemnities for that fiscal year;
- (b) a report setting out the information required in section 10;
- (c) a report setting out all debts or obligations forgiven by Metlakatla;
- (d) a report setting out the information required in paragraph 62(4)(a);
- (e) if Metlakatla has a land code in force, a note setting out moneys of Metlakatla derived from Metlakatla lands, categorized and shown separately from other revenues and that includes a sub-category respecting revenues from natural resources obtained from Metlakatla lands; and
- (f) any other report required under the FMA or an agreement.

Appointment of Auditor

74.(1) At least once every four (4) years, the Finance and Audit Committee shall undertake an open, transparent, merit-based process to identify and evaluate candidates for the position of auditor and make recommendations to the Governing Council.

(2) Metlakatla shall appoint an auditor for each fiscal year to hold office until the later of

- (a) the end of the Governing Council meeting when the audited annual financial statements for that fiscal year are being considered; or

(b) the date the auditor's successor is appointed.

(3) The terms and conditions of the appointment of the auditor shall be set out in an engagement letter approved by the Finance and Audit Committee and shall include the auditor's obligation

(a) to confirm in writing that the annual financial statements and the audit of them comply with this Law, the FMA and FMB standards, where applicable, or

(b) to identify in writing consequential non-compliance matters.

(4) To be eligible for appointment as the auditor of Metlakatla, an auditor shall

(a) be independent of Metlakatla, its related bodies, Councillors and officers and members; and

(b) be a public accounting firm or public accountant

(i) in good standing with the Chartered Professional Accountants of Canada, the Canadian Institute of Chartered Accountants, the Certified General Accountants Association of Canada or the Society of Management Accountants of Canada and their respective counterparts in the province or territory in which the public accounting firm or public accountant is practicing, and

(ii) licensed or otherwise authorized to practice public accounting in the province or territory in which the majority of the reserve lands of Metlakatla are located.

(5) If the auditor ceases to be independent, the auditor shall as soon as practicable after becoming aware of the circumstances

(a) advise Metlakatla in writing of the circumstances; and

(b) eliminate the circumstances that resulted in loss of independence or resign as the auditor.

Auditor's Authority

75.(1) To conduct an audit of the annual financial statements of Metlakatla, the auditor shall be given access to

(a) all records of Metlakatla for examination or inspection and given copies of these records on request; and

(b) any Councillor, officer, employee, contractor or agent of Metlakatla to ask any questions or request any information.

(2) On request of the auditor, every person referred to in paragraph (1)(b) shall

(a) make available all records referred to in paragraph (1)(a) that are in that person's care or control; and

(b) provide the auditor with full information and explanation about the affairs of Metlakatla as necessary for the performance of the auditor's duties.

(3) The auditor shall be given notice of

- (a) every meeting of the Finance and Audit Committee; and
- (b) the Governing Council meeting where the annual audit, including the annual financial statements, will be considered and approved.

(4) Subject to subsection (6), the auditor may attend any meeting for which he or she shall be given notice under this section or to which the auditor has been invited and shall be given the opportunity to be heard at those meetings on issues that concern the auditor as auditor of Metlakatla.

(5) The auditor may communicate with the Finance and Audit Committee, as the auditor considers appropriate, to discuss any subject that the auditor recommends be considered by the Finance and Audit Committee.

(6) The auditor may be excluded from all or any part of a meeting of the Finance and Audit Committee or the Governing Council by a recorded vote if the subject matter relates to the retaining or dismissal of the auditor.

Audit Requirements

76.(1) The annual financial statements of Metlakatla referred to in subsection 71(1) shall be audited by the auditor not more than one hundred and twenty (120) days after the fiscal-year end.

(2) The separate annual financial statements respecting the local revenue account referred to in subsection 72(1) shall be audited by the auditor at least once every calendar year.

(3) The auditor must conduct the audit of the annual financial statements referred to in subsections 71(1) and 72(1) in accordance with generally accepted auditing standards established by the Chartered Professional Accountants of Canada.

(4) When conducting the audit, the auditor shall provide

- (a) an audit opinion of the annual financial statements; and
- (b) a review engagement report on the special purpose reports referred to in section 73.

Review of Audited Annual Financial Statements

77.(1) This section does not apply to the annual financial statements respecting the local revenue account referred to in subsection 72(1).

(2) The audited annual financial statements shall be provided to the Finance and Audit Committee for its review and consideration not more than one hundred and five (105) days after the fiscal year-end for which the statements were prepared.

(3) The Governing Council shall review and approve the audited annual financial statements not more than one hundred and twenty (120) days after the end of the fiscal year for which the statements were prepared.

Access to Annual Financial Statements

78.(1) Before the annual financial statements referred to in subsections 71(1) and 72(1) may be published or distributed, they shall

- (a) be approved by the Governing Council;
- (b) be signed by
 - (i) the Chief of Metlakatla,
 - (ii) the Chair,
 - (iii) the senior financial administrator, and
 - (iv) the senior manager; and
- (c) include the auditor's audit report of the annual financial statements.

(2) The audited annual financial statements referred to in subsection 71(1) shall be available for inspection by members of Metlakatla at the principal administrative offices of Metlakatla during normal business hours.

(3) The audited annual financial statements referred to in subsection 72(1) shall be available for inspection by any person referred to in subsection 14(2) of the FMA at the principal administrative offices of Metlakatla during normal business hours.

Annual Report

79.(1) Not later than one hundred and eighty (180) days after the end of each fiscal year, the Governing Council shall prepare an annual report on the operations and financial performance of Metlakatla for the previous fiscal year.

(2) The annual report referred to in subsection (1) shall include the following:

- (a) a description of the services and operations of Metlakatla;
- (b) a progress report on any established financial objectives and performance measures of Metlakatla;
- (c) the audited annual financial statements referred to in subsection 77(1) for the previous fiscal year; and
- (d) any special purpose reports referred to in section 73, including the auditor's review engagement report, as applicable.

(3) The senior manager shall ensure that a paper or electronic copy of the annual report referred to in subsection (1) is provided

- (a) to a Metlakatla member as soon as practicable after a request is made by the member;
- (b) to the FMB as soon as practicable after the report's publication, if Metlakatla has a certificate issued by the FMB under subsection 50(3) of the FMA; and
- (c) to the FNFA as soon as practicable after the report's publication, if Metlakatla is a borrowing member.

(4) The senior manager shall establish and maintain a register for the annual report that identifies all Metlakatla members who have requested a copy of the annual report and which includes

- (a) the date each request was received; and
- (b) the date the annual report was provided to the member.

(5) If the senior manager does not provide a copy of the annual report to a member within a reasonable time after the member's request, the member may apply to the Governing Council to request a copy.

DIVISION 8 - Information and Information Technology

Ownership of Records

80.(1) All records that are produced by or on behalf of Metlakatla or kept, used or received by any person on behalf of Metlakatla are the property of Metlakatla.

(2) The Governing Council shall establish policies or procedures or give directions to ensure that the records referred to in subsection (1) remain the property of Metlakatla.

Policies and Procedures Manual

81.(1) The senior manager shall prepare and maintain a current policies and procedures manual respecting every element of Metlakatla's administrative systems, including any financial administration systems referred to in this Law.

(2) The policies and procedures manual under subsection (1) shall be made available to Councillors, members of the Finance and Audit Committee and all other Governing Council committees and officers and employees of Metlakatla, subject to reasonable exceptions for those parts of the manual that are appropriate for only limited distribution.

(3) If any part of the policies and procedures manual under subsection (1) is relevant to the services being provided by a contractor or agent of Metlakatla, that part of the policies and procedures manual shall be made available to the contractor or agent, subject to reasonable exceptions for those parts of the manual that are appropriate for only limited distribution.

Record Keeping and Maintenance

82.(1) The senior manager shall ensure that Metlakatla prepares, maintains, stores and keeps secure all Metlakatla records that are required under this Law or any other applicable law.

(2) Metlakatla records may not be destroyed or disposed of except as permitted by, and in accordance with, the policies, procedures or directions of the Governing Council.

(3) All financial records of Metlakatla shall be stored for at least seven (7) years after they were created.

(4) Records of resolutions and minutes of Governing Council meetings shall never be destroyed.

(5) The Governing Council shall establish policies and procedures or give directions respecting access of any persons to Metlakatla records.

Confidentiality of Information

83.(1) No person may be given access to Metlakatla records containing confidential information except as permitted by, and in accordance with, the policies, procedures and directions of the Governing Council.

(2) All persons who have access to Metlakatla records shall comply with all policies, procedures or directions of the Governing Council respecting the confidentiality, control, use, copying or release of that record or information contained in those records.

Account Records

84.(1) The tax administrator shall prepare, maintain, store and keep secure a complete set of all records respecting the local revenue system of Metlakatla, including all records referred to in section 5 of the *Local Revenue Management Implementation Regulations*.

(2) If Metlakatla has a loan from the FNFA that is secured by other revenues, the senior financial administrator shall prepare, maintain, store and keep secure a complete set of all records respecting other revenues of Metlakatla, including all records referred to in section 5 of the *Local Revenue Management Implementation Regulations* as amended by the *Financing Secured by Other Revenues Regulations*.

Information Technology

85. The Governing Council shall establish policies or procedures or give directions respecting information technology used by Metlakatla in its operations to ensure the integrity of Metlakatla's financial administration system and its database.

PART V - Capital Projects

Governing Council General Duties

86. The Governing Council shall take reasonable steps to ensure that

- (a) Metlakatla's tangible capital assets are maintained in a good and safe condition and to the same standard as a prudent owner of those assets;
- (b) the rehabilitation or replacement of Metlakatla's tangible capital assets is in accordance with a life-cycle management program described in this Part; and
- (c) capital projects for the construction of buildings or other improvements are financed, planned and constructed in accordance with procedures and to standards that generally apply to the financing, planning and construction of public buildings and other improvements of organized communities in the region in which the majority of Metlakatla lands are located.

Tangible Capital Assets Reserve Fund

87. The Governing Council shall establish a tangible capital asset reserve fund for the purpose of funding expenditures for capital projects carried out under this Part.

Reports on Capital Projects

88. At each Finance and Audit Committee meeting, the senior manager shall report on the following subjects:

- (a) year to date borrowings, loans and payments in respect of each capital project;
- (b) the status of a capital project, including
 - (i) a comparison of expenditures to date with the project budget,
 - (ii) a detailed description of any identified legal, financial, technical, scheduling or other problems, and
 - (iii) the manner in which a problem identified in subparagraph (ii) has been or shall be addressed; and
- (c) steps taken to ensure compliance with section 91 for every capital project.

Life-cycle Management Program

89.(1) The senior financial administrator shall establish and keep current a register of all Metlakatla's tangible capital assets that identifies each of these assets and includes the following information, as applicable:

- (a) location and purpose of the asset;
- (b) ownership and restrictions over ownership of the asset;
- (c) year of acquisition;
- (d) last inspection date of the asset;
- (e) expected life of the asset at the time of acquisition;
- (f) assessment of condition of the asset and its remaining useful life;
- (g) estimated residual value of the asset;
- (h) insurance coverage for the asset; and
- (i) any other information required by the Governing Council.

(2) On or before January 10 of each year, the senior manager shall arrange for the inspection and review of the state of each of Metlakatla's tangible capital assets to establish or update information respecting the following matters, as applicable:

- (a) its present use;
- (b) its condition and state of repair;
- (c) its suitability for its present use;

- (d) its estimated remaining life;
- (e) its estimated replacement cost;
- (f) estimated dates and costs of its required future rehabilitation;
- (g) a comparison of annual operating and maintenance costs, other than rehabilitation costs, for the last five (5) fiscal years;
- (h) maintenance records for all periods up to the date of inspection; and
- (i) property and liability insurance covering the capital asset and its use or operation.

(3) On or before January 15 of each year, the senior financial administrator shall prepare the following:

- (a) a schedule of annual routine maintenance, other than rehabilitation, for each of Metlakatla's tangible capital assets for the next fiscal year;
- (b) five (5), ten (10) and thirty (30) year forecasts of the estimated cost for rehabilitation or replacement of Metlakatla's tangible capital assets;
- (c) the proposed budget for rehabilitation of Metlakatla's tangible capital assets for the next fiscal year, setting out
 - (i) each proposed rehabilitation project and its schedule,
 - (ii) the estimated cost, including contingencies, of each proposed rehabilitation project, and
 - (iii) the estimated amounts and timing of money that is required to carry out each proposed rehabilitation project; and
- (d) the proposed budget for replacement of Metlakatla's tangible capital assets for the next fiscal year setting out
 - (i) each proposed replacement project and its schedule,
 - (ii) the description of each asset to be replaced,
 - (iii) the estimated cost, including contingencies, of each proposed replacement project, and
 - (iv) the reasons why each proposed acquisition should be regarded as a replacement for the capital asset to be replaced.

Review by Finance and Audit Committee

90.(1) On or before January 25 of each year, the Finance and Audit Committee shall review the information, schedules and budget prepared under section 89 for the following purposes:

- (a) to identify any means to reduce the costs of each rehabilitation or replacement project included in the proposed budgets;

(b) to know the effect that each rehabilitation or replacement project included in the proposed budgets will have on the annual operating costs and routine maintenance costs in future years; and

(c) to determine whether any significant savings might be effected by coordinating the scheduling of projects, deferring any projects or carrying out rehabilitation projects rather than replacement projects.

(2) On or before January 25 of each year, the Finance and Audit Committee shall review any plans for new construction of Metlakatla's tangible capital assets, including the proposed schedule, budget and impact on annual operating costs and routine maintenance costs in future years.

Capital Projects – Contracts and Tenders

91.(1) The Governing Council shall establish policies or procedures or give directions respecting the management of capital projects, including the following:

- (a) project planning, design, engineering, safety and environmental requirements;
- (b) project costing, budgeting, financing and approval;
- (c) project and contractor bidding requirements;
- (d) tender, contract form and contract acceptance;
- (e) course of construction insurance;
- (f) project performance guarantees and bonding;
- (g) project control, including contract management; and
- (h) holdbacks, work approvals, payment and audit procedures.

(2) All Metlakatla capital projects shall be managed in accordance with the policies, procedures or directions referred to in subsection (1).

Capital Project Consultants

92. The senior manager may retain the services of a professional engineer or other consultant to assist the senior manager, Finance and Audit Committee and Governing Council to carry out their obligations under this Part.

PART VI - Miscellaneous

FMB Standards

93.(1) If Metlakatla is a borrowing member or has a certificate issued by the FMB under subsection 50(3) of the FMA, Metlakatla shall comply with all the applicable FMB standards.

(2) If the Governing Council becomes aware that Metlakatla is not complying with a FMB standard referred to in subsection (1), the Governing Council shall as soon as practicable take the required actions to bring Metlakatla into compliance with the FMB standard.

Delegated Authority on Intervention

94.(1) Without limiting section 53 of the FMA, if

(a) Metlakatla is

- (i) making local revenue laws under subsection 5(1) of the FMA, or
- (ii) using its local revenues to secure a loan from the FNFA, and

(b) the FMB gives notice to Metlakatla under section 53 of the FMA that third-party management of Metlakatla's local revenues is required,

the Governing Council delegates to the FMB

(c) the powers and authorities described in subsection 53(2) of the FMA, and

(d) any other of the Governing Council's powers required to give effect to third-party management of Metlakatla's local revenues under the FMA.

(2) Without limiting section 53 of the FMA as adapted by the *Financing Secured by Other Revenues Regulations*, if

(a) Metlakatla is using its other revenues to secure a loan from the FNFA, and

(b) the FMB gives notice to Metlakatla under section 53 of the FMA that third-party management of Metlakatla's other revenues is required,

the Governing Council delegates to the FMB

(c) the powers and authorities described in subsection 53(2) of the FMA as adapted by the *Financing Secured by Other Revenues Regulations*, and

(d) any other of the Governing Council's powers required to give effect to third-party management of Metlakatla's other revenues under the FMA.

Land Management Obligations

95.(1) If Metlakatla has a land code under the *First Nations Land Management Act*, Metlakatla shall comply with the *First Nations Land Management Act* and any land code made by Metlakatla as required or permitted under that Act.

(2) If Metlakatla has a land code under the *First Nations Land Management Act*, the Governing Council shall establish and implement a policy that provides a method consistent with the requirements of Metlakatla's land code for being accountable to members of Metlakatla for the management of Metlakatla lands and for moneys earned from those lands to satisfy paragraph 6(1)(e) of the *First Nations Land Management Act*.

Oil and Gas Obligations

96. If Metlakatla has a financial code under the *First Nations Oil and Gas and Moneys Management Act*, Metlakatla shall comply with that Act and any financial code made by Metlakatla as required or permitted under that Act.

Reports of Breaches and Financial Irregularities

97.(1) Subject to subsections (2) and (3), if any person has reason to believe that

- (a) an expenditure, liability or other transaction of Metlakatla is not authorized by or under this Law or another Metlakatla law,
- (b) there has been a theft, misappropriation or other misuse or irregularity in the funds, accounts, assets, liabilities and financial obligations of Metlakatla,
- (c) a provision of this Law has been contravened, or
- (d) a person has failed to comply with the COIR,

the person may disclose the circumstances to a Councillor or to the Chair.

(2) If a Councillor becomes aware of any circumstances described under subsection (1), the Councillor shall report them to a Councillor, the senior manager or the Chair.

(3) If an officer, employee, contractor or agent of Metlakatla becomes aware of any circumstances described under subsection (1), the officer, employee, contractor or agent, as the case may be, shall report them to a Councillor, the senior manager or the Chair.

Inquiry into Report

98.(1) If a report is made to a Councillor, the senior manager or the Chair under subsection 97(3), the Councillor, senior manager or the Chair, as applicable, shall

- (a) conduct an informal inquiry to assess the validity of the complaint; and
- (b) where it appears that the complaint is valid, refer the matter to the Finance and Audit Committee for further investigation.

(2) As soon as practicable after conducting a review or investigation under paragraph (1)(b), the Finance and Audit Committee shall report its findings and recommendations to the Governing Council.

(3) The Finance and Audit Committee may make a further inquiry into any findings reported to it under this section but, in any event, shall make a report to the Governing Council respecting any circumstances reported to the Finance and Audit Committee under this section, including the Finance and Audit Committee's recommendations, if any.

(4) Councillors, the senior manager, the Finance and Audit Committee and the Chair have the right to retain an independent third party to conduct an investigation under this section.

Protection of Parties

99.(1) All reasonable steps shall be taken by the senior manager, the members of the Finance and Audit Committee and the Councillors to ensure that the identity of the person who makes a report under section 97 is kept confidential to the extent practicable in all the circumstances.

(2) A person who makes a report in good faith under section 97 shall not be subjected to any form of reprisal by Metlakatla or by a Councillor, officer, employee, contractor or agent of Metlakatla as a result of making that report.

(3) Councillors, the senior manager, and the Chair shall take all necessary steps to ensure that subsection (2) is not contravened and shall report any contravention or suspected contravention to the Governing Council.

(4) The Governing Council shall

(a) establish policies or procedures or give directions for the recording and safeguarding of reports made under section 97 and any records prepared during the inquiry or investigation into those reports;

(b) establish policies or procedures or give directions for the inquiry or investigation into reports made under section 97;

(c) establish policies or procedures or give directions concerning the fair treatment of a person against whom a report has been made under section 97; and

(d) establish policies requiring fair treatment of and protection for whistle-blowers who make a report in good faith under section 97.

Liability for Improper Use of Money

100.(1) A Councillor who votes for a resolution authorizing an amount to be expended, invested or used contrary to this Law or Metlakatla's local revenue law is personally liable to Metlakatla for that amount.

(2) Subsection (1) does not apply if the Councillor relied on information provided by an officer or employee of Metlakatla and the officer or employee was guilty of dishonesty, gross negligence or malicious or willful misconduct when providing the information.

(3) An amount owed to Metlakatla under subsection (1) may be recovered for Metlakatla by Metlakatla, a Metlakatla member or a person who holds a security under a borrowing made by Metlakatla.

(4) It is a good defence to any action brought against an officer or employee of Metlakatla for unauthorized expenditure, investment or use of Metlakatla financial assets if it is proved that the officer or employee gave a written and signed warning to the Governing Council that in his or her opinion, the expenditure, investment or use would be unlawful.

Indemnification against Proceedings

101.(1) Subject to subsection (3), the past and present Chief, Councillors, senior manager, and senior financial administrator are indemnified from liability arising from the acts or omissions of Metlakatla occurring while they were acting within the scope of their duties or in the course of their employment, provided that they

- (a) acted in good faith;
- (b) did not act against the interests of Metlakatla; and
- (c) acted within the scope of their duties or course of employment with respect to the acts or omissions at issue.

(2) Subject to subsection (3), the Governing Council may by resolution indemnify or provide for the indemnification of a named Metlakatla official, a category of Metlakatla official or all Metlakatla officials in accordance with the terms specified in the resolution.

(3) The Governing Council may not pay a fine that is imposed as a result of a Metlakatla official's conviction for an offence unless the offence is a strict or absolute liability offence.

Periodic Review of Law

102. At least every two years, the Finance and Audit Committee shall conduct a review of this Law

- (a) to determine if it facilitates effective and sound financial administration of Metlakatla; and
- (b) to identify any amendments to this Law that may better serve this objective.

Provision of Law to FNFA

103. If Metlakatla intends to apply to become a borrowing member, the Governing Council shall provide a copy of this Law to the FNFA as soon as practicable after the FMB approves the Law.

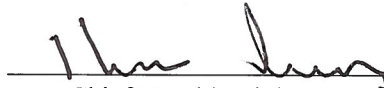
Repeal


104. The *Metlakatla First Nation Financial Administration Law, 2011* is hereby repealed in its entirety.

Coming into Force

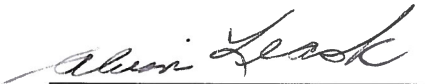
105. This Law comes into force on the day after this Law is approved by the FMB under section 9 of the FMA.

THIS LAW IS HEREBY DULY ENACTED by the Governing Council on the 2 day of December, 2015, at Prince Rupert, in the Province of British Columbia at a duly called and conducted Governing Council meeting at which the required quorum of _____ () members of the Governing Council was present throughout.


Chief Harold Leighton


Councillor Wayne Haldane


Councillor Alrita Leask


Councillor Alvin Leask, Jr.


Councillor James Nelson, Sr.


Councillor Cynthia Smith


Councillor Robert Nelson, Sr.

SCHEDULE - METLAKATLA FIRST NATION CONFLICT OF INTEREST RULES

PART ONE - INTERPRETATION

Interpretation

- 1 (1) In these Rules, “the FAL” means the *Metlakatla First Nation Financial Administration Law, 2015*.
- (2) Except as otherwise expressly provided in these Rules, words and expressions used in these Rules have the same meanings as in the FAL.
- (3) Sections 2 and 3 of the FAL apply to these Rules.
- (4) If there is a conflict between a provision of these Rules and a provision of the FAL, the provision of the FAL prevails to the extent of the conflict.

Definition of Conflict of Interest

- 2 (1) In these Rules, an individual has a “conflict of interest” when the individual exercises a power or performs a duty or function and at the same time knows or ought reasonably to have known that in the exercise of the power or performance of the duty or function there is an opportunity to benefit the individual’s private interests.
- (2) In these Rules, an individual has an “apparent conflict of interest” if a reasonably well informed person would perceive that the individual’s ability to exercise a power or perform a duty or function of their office or position shall be affected by the individual’s private interests.
- (3) In these Rules, an individual’s “private interests” mean the individual’s personal and business interests and includes the personal and business interests of
 - (a) the individual’s spouse;
 - (b) a person under the age of eighteen (18) years in respect of whom the individual or the individual’s spouse is a parent or acting in a parental capacity;
 - (c) a person in respect of whom the individual or the individual’s spouse is acting as guardian;
 - (d) a person, other than an employee, who is financially dependent upon the individual or the individual’s spouse or on whom the individual is financially dependent; and
 - (e) an entity in which the individual or the individual in combination with any other person described in this subsection has a controlling interest.
- (4) Despite subsections (1) and (2), an individual’s private interests do not give rise to a conflict of interest if those interests
 - (a) are the same as those of a broad class of members of Metlakatla of which the individual is a member; or
 - (b) are so remote or insignificant that they could not be reasonably regarded as likely to influence the individual in the exercise of a power or performance of a duty or function.

PART TWO – COUNCILLORS AND COMMITTEE MEMBERS

Application

- 3 This Part applies to all Councillors of Metlakatla and, where applicable, to all members of Council committees.

General Obligations

- 4 (1) Councillors shall avoid circumstances that could result in the Councillor having a conflict of interest or an apparent conflict of interest.
- (2) Councillors shall avoid placing themselves in circumstances where their ability to exercise a power or perform a duty or function could be influenced by the interests of any person to whom they owe a private obligation or who expects to receive some benefit or preferential treatment from them.
- (3) Councillors shall exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances.
- (4) Councillors shall comply with all Metlakatla laws and with all policies, procedures and directions of the Governing Council, including these Rules.

Disclosure of Interests

- 5 (1) In paragraph (2)(b) “real property” includes an interest held
 - (a) on reserve under a certificate of possession under the *Indian Act* or equivalent interest under the *First Nations Land Management Act*; or
 - (b) in fee simple off reserve.
- (2) A Councillor shall file a written disclosure of the following information with the senior manager:
 - (a) the names of the Councillor’s spouse and any persons or entities referred to in section 2(3);
 - (b) the employer of the Councillor and the Councillor’s spouse;
 - (c) real property owned by the Councillor or the Councillor’s spouse;
 - (d) business interests and material investments of the Councillor or the Councillor’s spouse, including in an entity referred to in paragraph 2(3)(e); and
 - (e) a gift referenced at subsection 6(3).
- (3) A Councillor shall file a written disclosure under subsection (2) on the following occasions
 - (a) within 30 days of being elected to the Governing Council;
 - (b) as soon as practical after a material change in the information previously disclosed; and
 - (c) on April 15 of each year that the Councillor holds office.

- (4) The senior manager shall establish and maintain a register of all information disclosed by a Councillor under this section and section 6.
- (5) On the written request of a member of Metlakatla or any person engaged in any aspect of the financial administration of Metlakatla, the senior manager shall permit that member or person to view the register referred to in subsection (4).

Gifts and Benefits

- 6 (1) A Councillor shall not accept a gift or benefit that might reasonably be seen to have been given to influence the Councillor in the exercise of the Councillor's powers or performance of the Councillor's duties or functions.
 - (2) Despite subsection (1), a gift or benefit may be accepted if the gift or benefit
 - (a) would be considered within
 - (i) normal protocol exchanges or social obligations associated with the Councillor's office,
 - (ii) normal exchanges common to business relationships, or
 - (iii) normal exchanges common at public cultural events of Metlakatla,
 - (b) is of nominal value;
 - (c) is given by a close friend or relative as an element of that relationship; or
 - (d) is of a type that the policies or directions of the Governing Council have determined would be acceptable if offered by Metlakatla to another person.
 - (3) Where a gift with a value greater than \$500 (five hundred dollars) is given to a Councillor or a person referred to in subsection 2(3), the Councillor shall make a written disclosure of the gift to the senior manager under section 5 and the gift shall be treated as the property of Metlakatla.
 - (4) Subsection (3) does not apply to a gift received during a public cultural event of Metlakatla.

Confidential Information

- 7 (1) Councillors shall keep confidential all information that the Councillors receive while performing their duties or functions unless the information is generally available
 - (a) to members of the public; or
 - (b) to members of Metlakatla.
- (2) Councillors shall only use confidential information referred to in subsection (1) for the specific purposes for which it was provided to the Councillors.
- (3) Councillors shall not make use of any information received in the course of exercising their powers or performing their duties or functions to benefit the Councillor's private interests or those of relatives, friends or associates.

Procedure for Addressing Conflict of Interest

- 8 (1) As soon as a Councillor becomes aware of circumstances in which the Councillor has a conflict of interest, the Councillor shall disclose the circumstances of the conflict of interest at the next Council meeting.
- (2) A Councillor shall leave any part of a Council meeting where the circumstances in which the Councillor has a conflict of interest are being discussed or voted on.
- (3) The minutes of a Council meeting shall record the Councillor's disclosure under subsection (1) and note the Councillor's absence from the Governing Council meeting when the circumstances in which the Councillor has a conflict of interest were being discussed or voted on.
- (4) A Councillor shall not take part in any discussions or vote on any decision respecting the circumstances in which the Councillor has a conflict of interest.
- (5) A Councillor shall not influence or attempt to influence in any way before, during or after a Council meeting any discussion or vote on any decision respecting the circumstances in which the Councillor has a conflict of interest.

Procedure for Undisclosed Conflict of Interest

- 9 (1) If a Councillor has reason to believe that another Councillor has a conflict of interest or an apparent conflict of interest in respect of a matter before the Governing Council, the Councillor may request clarification of the circumstances at a Council meeting.
- (2) If, as a result of a clarification discussion under subsection (1), a Councillor is alleged to have a conflict of interest or an apparent conflict of interest and the Councillor does not acknowledge the conflict of interest or apparent conflict of interest and take the actions required under section 8, the Governing Council shall determine whether the Councillor has a conflict of interest or an apparent conflict of interest before the Governing Council considers the matter referred to in subsection (1).
- (3) The minutes of the Governing Council meeting shall record any determination made by the Governing Council under subsection (2).
- (4) If the Governing Council determines under subsection (2) that a Councillor has a conflict of interest or an apparent conflict of interest, the Councillor shall comply with section 8.

Obligations of Committee Members

- 10 (1) This section applies to all members of Governing Council committees.
- (2) Sections 4 and 6 to 9 apply to a member of a Governing Council committee and all references in those sections to
 - (a) a Councillor are considered to be references to a member of a Governing Council committee; and
 - (b) a Governing Council meeting are considered to be references to a Governing Council committee meeting.

PART THREE – OFFICERS AND EMPLOYEES

Application

11 This Part applies to all officers and employees of Metlakatla.

General Obligations

- 12** (1) In the performance of their duties and functions, an officer or employee shall act honestly and in good faith and in the best interests of Metlakatla.
- (2) An officer or employee shall avoid circumstances that could result in the officer or employee having a conflict of interest or an apparent conflict of interest.
- (3) An officer or employee shall avoid placing themselves in circumstances where their ability to exercise a power or perform a duty or function of their office or position could be influenced by the interests of any person to whom they owe a private obligation or who expects to receive some benefit or preferential treatment from them.
- (4) The senior manager shall ensure that every officer and employee is informed of their obligations under this Part and shall take steps to ensure that employees comply with these obligations.
- (5) Officers and employees shall comply with all Metlakatla laws and with all policies, procedures and directions of the Governing Council, including these Rules.

Disclosure of Conflict of Interest

- 13** If an officer or employee believes they have a conflict of interest, the officer or employee shall
- (a) disclose the circumstances in writing as soon as practical to the senior manager or, in the case of the senior manager, to the Chair of the Finance and Audit Committee; and
- (b) refrain from participating in any discussions or decision-making respecting the circumstances of the conflict of interest until advised by the senior manager or the Chair, as the case may be, on actions to be taken to avoid or mitigate the conflict of interest.

Gifts or Benefits

- 14** (1) An officer or employee shall not accept a gift or benefit that might reasonably be seen to have been given to influence the officer or employee in the exercise of their powers or performance of their duties or functions.
- (2) Despite subsection (1), a gift or benefit may be accepted if the gift or benefit
- (a) would be considered within
- (i) normal exchanges common to business relationships, or
- (ii) normal exchanges common at public cultural events of Metlakatla;
- (b) is of nominal value;
- (c) is given by a close friend or relative as an element of that relationship; or

- (d) is of a type that the policies or directions of the Governing Council have determined would be acceptable if offered by Metlakatla to another person.

Outside Employment and Business Interests

- 15 (1) If an officer or employee is permitted under their terms of employment to have outside employment or business interests, the officer or employee shall disclose these employment or business interests in writing to the senior manager or, in the case of the senior manager, to the Chair of the Finance and Audit Committee.
- (2) An officer or employee shall ensure that any permitted outside employment or business interests do not unduly interfere with the exercise of their powers or performance of their duties and functions and that these activities are conducted on their own time and with their own resources.

Confidential Information

- 16 (1) An officer or employee shall keep confidential all information that the officer or employee receives while exercising their powers or performing their duties or functions unless the information is generally available
 - (a) to members of the public; or
 - (b) to members of Metlakatla.
- (2) An officer or employee shall only use any confidential information referred to in subsection (1) for the specific purposes for which it was provided to the officer or employee.
- (3) An officer or employee shall not make use of any information received in the course of exercising their powers or performing their duties or functions to benefit the officer or employee's private interests or those of relatives, friends or associates.

Metlakatla Property and Services

- 17 (1) Officers and employees shall not use any personal property or services of Metlakatla for any purposes unrelated to performance of their duties or functions unless that use is otherwise acceptable under the policies or directions of the Governing Council.
- (2) Officers and employees shall not acquire any personal property of Metlakatla unless it is done in accordance with policies or directions of the Governing Council.

PART FOUR – CONTRACTORS

Application

- 18 (1) This Part applies to all contractors of Metlakatla, other than a person who has an employment contract with Metlakatla.
- (2) In this Part, a reference to a contractor includes a reference to each employee or agent of the contractor who is engaged to perform duties or functions under the contract with Metlakatla.

Contractor Acting as Officer or Employee

- 19 If a contractor is retained to exercise the powers or perform the duties or functions of an officer or employee, the contractor shall comply with Part Two of these Rules as if the contractor were an officer or employee of Metlakatla.

General Obligations

- 20 (1) A contractor shall act at all times with integrity and honesty
- (a) in its dealings with Metlakatla; and
 - (b) in its dealing with any third party when the contractor is representing or acting on behalf of Metlakatla.
- (2) A contractor shall not attempt to obtain preferential treatment from Metlakatla by offering gifts or benefits to a Councillor, Finance and Audit Committee member, officer or employee that they are prohibited from accepting under these Rules.
- (3) A contractor shall ensure that every employee or agent of the contractor who is engaged to perform duties or functions under the contract with Metlakatla is informed of their obligations under this Part and shall take steps to ensure that these employees or agents comply with these obligations.
- (4) Contractors shall comply with all Metlakatla laws and with all applicable policies, procedures and directions of the Governing Council, including these Rules.

Confidential Information

- 21 (1) A contractor shall keep confidential all information that the contractor receives in the course of performing their duties or functions unless the information is generally available to members of the public.
- (2) A contractor shall only use any confidential information referred to in subsection (1) for the specific purposes for which it was provided to the contractor.
- (3) A contractor shall not make use of any information received in the course of performing its duties or functions to benefit the contractor's interests or those of the contractor's relatives, friends or associates.

Business Opportunities

- 22 A contractor shall not take advantage of a business or investment opportunity being considered by Metlakatla and which the contractor becomes aware of while performing services for Metlakatla unless Metlakatla has determined not to pursue the opportunity.

Metlakatla Property and Services

- 23 If a contractor has been provided the use of any property or services of Metlakatla in order to perform services for Metlakatla, the contractor shall not use the property or services for any purposes unrelated to performance of those services.

PART FIVE – BREACH

Consequences of breach

- 24** If a person breaches these Rules, the following actions may be taken:
- (a) an officer or employee may be disciplined, including dismissal, in accordance with the HR manual;
 - (b) a contractor's contract may be terminated;
 - (c) the appointment of a member of a committee may be revoked;
 - (d) the appointment of an agent may be revoked;
 - (e) the person shall be removed from the Finance and Audit Committee in accordance with paragraph 11(6)(b) of the FAL, if applicable; and
 - (f) Metlakatla may use any legal means available to it to remedy the situation.

Appeal

- 25** Decisions or orders made under these Rules may be appealed to the Metlakatla Justice Tribunal, in accordance with the procedures established by the Metlakatla Justice Tribunal.