



Tansi & Happy New Year!

We at the Lands Department hope each and everyone of you had a restful, stress-free & exciting holiday season, full of laughter and cheer! 😊❤️❤️

We are in the midst of planning a few engagement sessions with membership in the Spring & continuing the development of our ongoing projects within the Nation. We hope to have new developments for you in the February Newsletter Submission.

This month, we will be working on the development of our new fiscal year budgets with Finance, our Annual Workplan and updating our Annual Reports for the upcoming fiscal year audit. We have been busy planning agriculture meetings, discussing food security and sovereignty initiatives, watershed protection, community trail network planning and sign development for various trails on reserve. Your input and participation is always appreciated in our various programs & projects and will be welcome in the upcoming months, stay tuned for more information.



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# Land Code and Trespassing Laws

## A Lower Nicola Indian Band Story

**Jenine Cambell-Cove**



A Land Code is a document the community creates to replace the land management parts of the Indian Act. It outlines the basic laws for managing reserve lands and resources on reserve.

Once a signatory to the Framework Agreement on First Nation Land Management, a First Nation can create a Land Code that outlines how the community will work together to develop laws and policies for governing and managing their reserve lands and resources.

### What Happened

Lower Nicola Indian Band members voted and approved the LNIB Land Code in August 2016 and the Land Code came into effect on December 1, 2016. LNIB's land code establishes offences that may be prosecuted in accordance with summary conviction procedures under the Criminal Code and authorizes courts to enforce them

September 20th, 2022 - because of their Land Code the Lower Nicola Indian Band were able to create a trespassing law within it. Then they passed a BCR (Band Council Resolution) "prohibiting people from using RVs as a residence on LNIB lands. Unless the person receives authorization from the Lands Dept. Manager" as a bylaw under their trespassing law.

Despite the laws created, a couple of non-members decided to take up residence in their RV unlawfully on LNIB reserve lands and their residency is believed to have started since at least October 5th, 2023. The individuals refused to leave, Crown prosecutors and police refused to assist. As a result, LNIB brought an application to privately prosecute them in BC provincial court.

The Honorable Judge R.D Phillips of the Provincial Court held LNIB to proceed with its prosecution on the basis that its land code created enforceable laws and he ordered a peace officer to serve documents on the accused, forcing them to attend court to answer the charges.

**"The Framework Agreement and Land Code have the force of Law"**

- Honorable Judge RD Phillips

### Why it's important

The Crown has a long track record of denying the existence and legitimacy of Indigenous Peoples' laws, including by refusing to enforce them.

Over one hundred First Nations are revitalizing and implementing their laws on reserve pursuant to their land codes, but the Crown is not enforcing them when they are violated. This poses a serious barrier to First Nations meaningfully exercising jurisdiction over their lands because it creates a situation where Indigenous governments are passing laws Crown governments will not enforce. It also perpetuates the lie that Indigenous laws are somehow less legitimate than those enacted by other governments.

The Provincial Court's decision in Lower Nicola Indian Band marks an advance in the building body of case law supporting First Nations' ability to govern their reserve lands pursuant to their laws by confirming they can enforce their land code laws in court.

## **K'ómoks First Nation Appoints Dr. Marion Buller as First Justice of the Peace – A Historic Milestone in First Nation Land Governance**

K'ómoks, BC – December 4, 2024/KFN/LAB/RC –

K'ómoks First Nation has announced the appointment of Dr. Marion Buller as the Nation's first Justice of the Peace. This groundbreaking achievement is historic, as K'ómoks is the first land code First Nation in Canada to appoint a Justice of the Peace. The appointment is a powerful expression of self-determination and a cornerstone in K'ómoks First Nation's justice process, which prioritizes cultural appropriateness, accessibility and community safety.

The K'ómoks Justice Process was created out of necessity to fill the gaps in federal and provincial enforcement support. K'ómoks First Nation is surrounded by a large urban centre, made up of the various communities of the Comox Valley. Despite this proximity, K'ómoks does not have access to the same level of enforcement support as its municipal neighbors. RCMP services are bound by the scope of the RCMP Act, which protects the laws of Canada, the provinces, and municipalities with contracts for policing. However, the RCMP Act does not acknowledge First Nations laws. This gap leaves First Nation communities vulnerable, as criminal activity can seek refuge on reserve lands.

To protect their people and lands, K'ómoks First Nation has taken the lead in bridging this enforcement gap, ensuring accessibility to justice, and aligning traditional practices like restorative justice and healing with the Canadian legal system. While current barriers to support by the Canadian legal system and policing bodies can make enforcing First Nation laws difficult, the K'ómoks First Nation Justice Process is implementing an innovative solution that can serve as a model for other First Nations across Canada who are strengthening their enforcement systems...

### **Press Conference:**

#### **News Articles:**

Financial Post: [K'ómoks First Nation Appoints Dr. Marion Buller as First Justice of the Peace – A Historic Milestone in First Nation Land Governance](#)

Chek News: ['Historic milestone': K'ómoks First Nation appoints first-ever justice of the peace](#)

Comox Valley Record: [K'ómoks First Nation appoints Justice of the Peace, as part of new justice process](#)

Raven Country News: [K'ómoks First Nation Appoints Dr. Marion Buller As First Justice Of The Peace](#)

#### **Radio Interviews:**

[CBC Listen : K'ómoks First Nation appoints Marion Buller as Justice of the Peace](#)



## New Memorandum of Understanding Leads to More Support for Communities to Manage Their Own Lands

May 1, 2024 — Ottawa, unceded traditional Algonquin territory, Ontario — Lands Advisory Board and Indigenous Services Canada.

Today, Chief Robert Louie, Chairman of the Lands Advisory Board (LAB), Austin Bear, Chair of the First Nations Land Management Resource Centre, and the Honourable Patty Hajdu, Minister of Indigenous Services, signed a Memorandum of Understanding securing further funding for First Nations land management. With this new five-year funding agreement, part of the \$187 million of funding over five years and over \$34 million ongoing provided in Budget 2023, the LAB and the First Nations Land Management Resource Centre will support First Nations in governing their lands and creating economic and social opportunities for their communities. Communities with operational land codes will receive an increase in funding to govern their lands—up to 21% for most First Nations. Funding to support communities seeking to also opt out of the relevant sections of the *Indian Act* and develop their own land codes will be increased by 50%. In addition, up to 50 more First Nations will be supported to become signatories to this historic agreement over the next five years. ...

