



**Squiala First Nation
Land Code**

Dated for Reference July 20, 2007

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PREAMBLE

WHEREAS the Squiala First Nation has a deep and profound relationship with the Land;

WHEREAS the peoples of Squiala First Nation, being Stó:lo, are represented by the Council of Squiala First Nation;

AND WHEREAS the peoples of Squiala First Nation have occupied and benefited from our territories since time out of memory and honour our connection to the land, resources and elements of the natural world that provide for our physical and spiritual needs;

AND WHEREAS the peoples of Squiala First Nation will respect, protect and enhance our language, culture and heritage while responsibly developing our lands and resources for the long term benefit of our membership, their families and future generations;

AND WHEREAS the peoples of Squiala First Nation fully intend to protect and enhance our cultural integrity, inherent rights and economic self sufficiency in order that we may continue to survive and prosper, consistent with our traditional ways;

AND WHEREAS Squiala First Nation wishes to manage our own land and resources rather than having our land and resources managed on our behalf by Canada under the *Indian Act*;

AND WHEREAS Squiala First Nation wishes to manage our own land and resources by entering into the Framework Agreement on First Nation Land Management;

NOW THEREFORE THIS LAND CODE IS HEREBY ENACTED AS THE FUNDAMENTAL LAND LAW OF SQUIALA FIRST NATION.

PART 1 PRELIMINARY MATTERS

1. Title

1.1 The title of this enactment is the *Squiala First Nation Land Code*.

2. Interpretation

Definitions

2.1 In this Land Code:

“Act” means the *First Nations Land Management Act*, S.C. 1999, c. 24;

“Band Land” means Squiala First Nation Land in which all Members have a common interest and which is not subject to any individual interest;

“Certificate of Possession” means documentary evidence of a Member’s allotted residential lot;

“Common-law Marriage” means two individuals not married to each other that have lived together as Spouses for a period of not less than two years;

“Council” means the Chief and Council of Squiala First Nation;

“Easement” means an Interest granted under section 30.1 of this Land Code, or if granted prior to this Land Code coming into force, granted pursuant to the *Indian Act*, giving a grantee the right to use the land of a grantor for a right of way, including a right of way to provide utility or other service to the land of the grantee, provided that the Interest does not confer any right of exclusive possession in the land and does not restrict the rights of the grantor beyond the rights required to give effect to the Interest;

“Elder” means a person over the age of 45 years who is considered an Elder of the Squiala First Nation;

“Eligible Voter” means a Member who has attained the age of 18 years on or before the day of a vote under this Land Code;

“First Nations Land Registry” means the registry maintained by the Department of Indian Affairs and Northern Development under clause 51.1 of the Framework Agreement;

“Framework Agreement” means the Framework Agreement on First Nations Land Management entered into between the Government of Canada and fourteen First Nations on February 12, 1996, as amended;

“Immediate Family” means, in respect of an individual, the individual’s parent, sister, brother, grandchild, child or Spouse;

“Individual Agreement” means the Individual First Nation Agreement made between Squiala First Nation and Her Majesty in right of Canada in accordance with clause 6.1 of the Framework Agreement;

“Interest” means an interest in Squiala First Nation Land and includes a residential lot, Certificate of Possession, Leasehold, Easement, Right of Way, Permit, License, charge and Mortgage;

“Instrument” means a formal legal document;

“Land Code” means this *Squiala First Nation Land Code*;

“Lands Committee” means the Squiala First Nation Lands Committee established under section 23.1;

“Lands Manager” means the employee designated as responsible for the administration of Squiala First Nation Land;

“Law” means a Law enacted under this Land Code but does not include a Resolution;

“Lease” means a written contract setting out terms and conditions of a Leasehold;

“Leasehold” means an Interest granted under section 30.1 of this Land Code or, if granted prior to this Land Code coming into force, granted pursuant to the *Indian Act*, including a Sub-lease, giving a person an exclusive right of use and possession of a parcel of Squiala First Nation Land, upon agreed conditions, for a specific term of one or more years, including any renewal or extension thereof;

“License “ means an Interest in Squiala First Nation Land granted under section 30.1 of this Land Code, giving a person the right to use, develop or extract Natural Resources from the land of another or from Band Land;

“Meeting of Members” means a meeting under section 13;

“Member” means an individual whose name appears or is entitled to appear on the Squiala First Nation membership list;

“Mortgage” means an Interest in Squiala First Nation Land granted under section 34 of this Land Code or, if granted prior to this Land Code coming into force, granted pursuant to the *Indian Act*, in which a mortgagor with a registered Certificate of Possession, Leasehold, or License transfers their Interest to a mortgagee as security for a debt or performance of a duty on conditions set out on a written mortgage agreement, including a condition that if the debt is repaid or the duty is performed according to the terms of such mortgage agreement the transfer becomes void and the Interest returns to the mortgagor;

“Natural Resource” means any material on or under Squiala First Nation Land in its natural state which, when extracted, has economic value;

“Permit” means an Interest in Squiala First Nation Land other than a Leasehold, Easement or License, granted under section 30.1 of this Land Code or, if granted prior to this Land Code coming into force, granted pursuant to the *Indian Act*, giving one person the right to use the land of another for a specified purpose, but not conveying any right of exclusive possession and not restricting the right of the grantor beyond the right required to give effect to the Interest;

“Petition” means a written request under section 8.2(d);

“Ratification Vote” means a vote under section 14;

“Resolution” means a formal motion moved by a Council member, seconded by another Council member and passed by Council;

“Spouse” means an individual who is legally married to another, whether by custom, religious or civil ceremony, and includes a spouse by Common-law Marriage;

“Squiala First Nation Lands Registry” means the registry maintained by Squiala First Nation under section 26.1 of this Land Code;

“Squiala First Nation” means the Squiala Indian Band, which is a First Nation within the meaning of the Framework Agreement and named under the Act;

“Squiala First Nation Land” means any portion of a Squiala First Nation Indian reserve that is subject to this Land Code;

“Sub-lease” means a Leasehold in which the person transferring the interest is the lessee in a prior exiting Lease;

“Traditional Advisory Council” means the Squiala First Nation Traditional Advisory Council established under the Squiala First Nation Governance Manual; and

“Verifier” mean a verifier appointed in accordance with clause 8.1 of the Framework Agreement.

2.2 In this Land Code:

- (a) the use of the word “will” denotes an obligation that, unless this Land Code provides to the contrary, must be carried out as soon as practicable after this Land Code comes into effect or after the event that gives rise to the obligation;
- (b) unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;
- (c) headings and subheadings are for convenience only, do not form a part of this Land Code and in no way define, limit, alter or enlarge the scope of meaning of any provision of this Land Code;

- (d) a reference to a statute includes every amendment to it, every regulation made under it and any Law enacted in substitution for it or in replacement of it;
- (e) unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular;
- (f) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of feminine includes the masculine;
- (g) where the time limited for doing of an act expires or falls on a Saturday, a Sunday or a federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday;
- (h) where the time limited for the doing of an act in the Squiala First Nation administration building falls on a day when the office is not open during regular business hours, the act may be done on the next day that that office is open; and
- (i) where there is a reference to a number of days between two events, in calculating that number of days, the days on which the events happen are excluded.

Paramountcy

- 2.3 If there is an inconsistency or conflict between this Land Code and any other enactment of Squiala First Nation, this Land Code will prevail to the extent of the inconsistency or conflict.
- 2.4 If there is an inconsistency or conflict between this Land Code and the Framework Agreement, the Framework Agreement will prevail to the extent of the inconsistency or conflict.

Culture and Traditions

- 2.5 The structures, bodies and procedures established by or under this Land Code may be interpreted in accordance with the culture, traditions and customs of Squiala First Nation.

Non-abrogation

- 2.6 This Land Code does not abrogate or derogate from any aboriginal right, treaty right or other right or freedom that pertains now or in the future to Squiala First Nation or its Members.
- 2.7 This Land Code is not intended to affect the eligibility of Squiala First Nation or any Member to receive service or participate in such public or aboriginal

programs as may be established from time to time to the extent that Squiala First Nation has not assumed responsibility for such service or programs.

Fair Interpretation

2.8 This Land Code will be interpreted in a fair, large and liberal manner.

Fiduciary Relationships

2.9 This Land Code is not intended to abrogate the fiduciary relationships between Her Majesty the Queen in Right of Canada, Squiala First Nation and its Members.

Lands and Interest Included

2.10 A reference to “land” or “Land” in this Land Code is, unless the context otherwise requires, a reference to Squiala First Nation Land and all rights and resources in and of such land including:

- (a) the water, beds underlying water, riparian rights, minerals and subsurface resources and all other renewable and non-renewable Natural Resources in and of that land, to the extent that those resources are under the jurisdiction of Canada or Squiala First Nation; and
- (b) all the Interests and Licenses granted to Squiala First Nation by Her Majesty in right of Canada as listed in the Individual Agreement.

3. Authority to Govern

Source of Authority

3.1 The authority of Squiala First Nation to govern its lands and resources flows from:

- (a) the Creator to the people of Squiala First Nation;
- (b) from the people of Squiala First Nation to the Council according to the culture, traditions, customs and Laws of Squiala First Nation; and
- (c) from Squiala First Nation’s inherent right of self-government and its other aboriginal rights, including aboriginal title.

4. Purpose

Purpose

4.1 The purpose of this Land Code is to implement the Framework Agreement and without limiting the generality of the foregoing, to set out the principles, procedures and administrative structures that apply to Squiala First Nation and by

which Squiala First Nation will exercise authority over those lands in accordance with the Framework Agreement.

Ratification of Framework Agreement

- 4.2 The Framework Agreement is ratified by Squiala First Nation when the Squiala First Nation Members approve this Land Code.

5. Description of Squiala First Nation Land

Squiala First Nation Land

- 5.1 The Squiala First Nation lands that are subject to this Land Code are:

- (a) Squiala Indian Reserve No. 7, being Reserve Lands within the Province of British Columbia, Canada in the New West Minister District, more particularly described as:

All of Squiala Indian Reserve No. 7 bounded by the exterior rectilinear boundary as shown on Plan 65097 recorded in the Canada Lands Surveys Records (CLSR) and natural boundary of the Chilliwack River, along Kwawkwawapilt I.R. 6 and along District Lot 257, Group 2, as shown on Plan 92637 CLSR.

Excepting thereout and therefrom;

All that portion required for a railway right of way as shown on Plan 1028 CLSR; and

All that portion of a right of way as shown on Plan 92236 CLSR.

Total Lands, excluding mines and minerals, containing 86.6 hectares, (214.1 acres) more or less.

The above described Reserve Lands are subject to:

The terms and conditions set out Federal Order in Council 1930-208, registered in the ILR as No 15203, describing how Indian Reserves within the Railway Belt were to be excluded from the transfer of the Railway Belt to the Province of BC.

- (b) Squiala Indian Reserve No. 8, being Reserve Lands within the Province of British Columbia, Canada in the New West Minister District, more particularly described as:

All of Squiala Indian Reserve No. 8 shown on Plan 91707 recorded in the Canada Lands Surveys Records (CLSR).

Excepting thereout and therefrom;

Parcel A as shown on Plan 62573 CLSR.

Total Lands, excluding mines and minerals, containing 47.6 hectares, (117.7 acres) more or less.

The above described Reserve Lands are subject to:

A permit in favour of the Corporation of the Township of Chilliwack, for a road right of way over Plan RD3327, registered in the Indian Lands Registry (ILR) as No. X16047.

The above described Reserve Lands are subject to:

The terms and conditions set out Federal Order in Council 1930-208, registered in the ILR as No 15203, describing how Indian Reserves within the Railway Belt were to be excluded from the transfer of the Railway Belt to the Province of BC.

Additional Lands

- 5.2 The following lands may be subject to this Land Code after the applicable conditions are met:
- (a) land owned jointly by Squiala First Nation and another First Nation, when the First Nations agree upon a joint management scheme for that land; and
 - (b) any land or Interest acquired by Squiala First Nation after this Land Code takes effect, whether by land claim, purchase or other process, when an environmental audit declares it free of environmental hazard.

Land Exchange

- 5.3 For greater certainty, section 5.2 does not apply to land acquired by land exchange under section 17.

Inclusion of Land or Interest

- 5.4 When the relevant conditions in section 5.2 are met, Council will call a Meeting of Members under section 13 and, may enact a Law that declares the land or Interest to be subject to this Land Code.

PART 2
FIRST NATION LEGISLATION

6. Law-Making Powers

Council May Make Laws

6.1 Council may, in accordance with this Land Code, make Laws in respect of:

- (a) development, conservation, protection, management, use and possession of Squiala First Nation Land;
- (b) Interests and Licenses in relation to Squiala First Nation Land;
- (c) any matter necessary to give effect to this Land Code; and
- (d) any matter necessary or ancillary to a Law in respect of Squiala First Nation Land.

Examples of Laws

6.2 For the greater certainty, and without limiting the generality of section 6.1, Council may make Laws in relation to Squiala First Nation Land including:

- (a) zoning and land use planning;
- (b) regulation, control, authorization and prohibition of occupation and development of Squiala First Nation Land;
- (c) creation, regulation and prohibition of Interests;
- (d) environmental assessment and environmental protection;
- (e) provision of local services and the imposition of user charges;
- (f) provision of service for resolution, outside the courts, of disputes;
- (g) authorization and regulation of subdivisions;
- (h) setting aside and regulation of parks, parklands and recreational lands;
- (i) setting aside and regulation of heritage lands and sacred lands;
- (j) rules and procedures for the receipt, management, expenditure, investment and borrowing of moneys, and the establishment of administrative structures to manage such moneys;

- (k) creation of management and administrative bodies or agencies;
- (l) regulation of residence on Squiala First Nation Land;
- (m) regulation of access to Squiala First Nation Land;
- (n) removal and punishment of persons trespassing upon Squiala First Nation Land or frequenting Squiala First Nation Land for prohibited purposes;
- (o) public nuisance and private nuisance;
- (p) regulation of sanitary conditions and the provision of sanitary services in private premises and public places;
- (q) construction and maintenance of boundary and internal fences;
- (r) construction, maintenance and management of roads, watercourses, water diversions, storm drains, ditches and other local and public works; and
- (s) regulation of traffic and transportation.

Administration

- 6.3 Council will perform all duties and functions and exercise all powers of Squiala First Nation that are not specifically assigned to an individual or body established under this Land Code.

Delegation

- 6.4 Notwithstanding section 6.3 Council may delegate administrative authority in relation to a Law enacted under section 6.1, to an individual or a body established or authorized under this Land Code.

Power, Authority or Discretion

- 6.5 Any power, authority or discretion exercised by Council, the Lands Committee or other individual or body established or authorized under this Land Code will be exercised on behalf of, and for the benefit and protection of, Squiala First Nation.

7. Consultation with Lands Committee

Consultation with Lands Committee

- 7.1 Council will meet with the Lands Committee established under section 23.1 to receive input prior to introducing a Law in respect of:

- (a) a land use plan, an amendment of a land use plan subject to section 16.2, or zoning Law;
 - (b) a subdivision plan;
 - (c) declaring land or an Interest in land referred to in section 5.2 to be subject to this Land Code;
 - (d) land designated as heritage land or sacred land;
 - (e) environmentally sensitive property;
 - (f) environmental assessment;
 - (g) the transfer or assignment of an Interest in Squiala First Nation Land;
 - (h) a Spousal Property Law section 37;
 - (i) any Law or class of Law that Council, by resolution, declares to be subject to this section.
- 7.2 Nothing in this Land Code precludes Council or the Lands Committee from consulting with other advisors or representatives of other jurisdictions, including Canada, a province, another First Nation, a municipal corporation or a regional district.
- 7.3 The Lands Committee may call a Meeting of Members under section 13 for further consultation on any matter requiring Lands Committee consultation.

8. Law-making Procedure

Approval of Law by Council

- 8.1 A Law is enacted if it is approved by Council.

Introduction of Laws

- 8.2 A proposed Law may be introduced at a meeting of Council by:
- (a) Council or a member of Council;
 - (b) a representative of the Lands Committee, or other body composed of Members, that may be authorized by Council to do so;
 - (c) the Lands Manger; or

- (d) a Petition to Council signed by no less than 20 percent of the Eligible Voters, requesting development of a Law and setting out the intended purpose and specific subject matter of the proposed Law.

Tabling and Posting of Laws

- 8.3 At least 14 days before Council votes upon a proposed Law the proposed Law will be:
- (a) tabled at a meeting of Council;
 - (b) deposited with the Chair of the Lands Committee; and
 - (c) posted in the Squiala administration office and other public places on Squiala Land.

Urgent Matters

- 8.4 Council may enact a Law without the preliminary steps required under section 8.3 if Council is reasonably of the opinion that the Law is required urgently to protect Squiala First Nation Land or its Members.
- 8.5 A Law enacted under section 8.4 will be deemed to have been repealed and to have no force and effect 28 days after its enacted, but may be re-enacted in whole or as amended, in accordance with section 8.3.

Certification of Law

- 8.6 The original copy of a Law or Resolution relating to Squiala Land will be signed by a quorum of Council present at the meeting at which the Law or Resolution is enacted.

Laws Coming Into Force

- 8.7 A law comes into force on:
- (a) the date it is enacted;
 - (b) a date set by Resolution; or
 - (c) such other date as may be set by the Law.

9. Publication of Laws

Publication

- 9.1 All Laws will be recorded in the minutes of Council.

Posting Laws

- 9.2 As soon as practicable after a Law has been enacted, but no later than 7 days following its adoption by Council, the Lands Manager will post a copy of the Law in the Squiala First Nation administration office.

Register of Laws

- 9.3 Council will cause to be kept at the Squiala First Nation administration office a register of Laws containing the original copy of all Laws and Resolutions, including Laws and Resolutions that have been repealed and are no longer in force.
- 9.4 Any person may, during regular business hours at the Squiala First Nation Administration Office, have reasonable access to the register of Laws.

Copies for Any Person

- 9.5 Any person may obtain a copy of a Law or a Resolution upon payment of a five (5) dollar fee or another amount set by Resolution.
- 9.6 Section 9.5 does not prevent Council or a body designated by the Council from making a copy of the Law or Resolution available without fee.

10. Amendments and Repeals

- 10.1 A Squiala First Nation Law may be amended according to the process outlined under section 8 and 9.
- 10.2 A Squiala First Nation Law enacted under this Land Code may be repealed by a vote of the eligible voters at a Meeting of Members.

**PART 3
MEMBER CONSULTATION**

11. Rights of Eligible Voters

Rights of Eligible Voters

- 11.1 An Eligible Voter is eligible to vote in a Ratification Vote or at a Meeting of Members.

12. Conduct of Meetings

- 12.1 Council will conduct meetings under this Land Code in accordance with the Squiala First Nation Governance Manual and any other Law, policy or procedure adopted by Council for such purpose.

13. Meeting of Members

Purpose

- 13.1 As prescribed in sections 7.3, 15.7, 18.4, 23.2(d), 36.4, and 44.1, Council will consult with Members at a Meeting of Members.

Voting

- 13.2 Decisions at a Meeting of Members will be made by a majority vote by secret ballot of the Eligible Voters present at the meeting subject to section 13.6.

Notice of Meeting

- 13.3 The Lands Manager will give written notice of a Meeting of Members that:
- (a) specifies the date, time and place of the meeting; and
 - (b) contains a brief description of the matters to be discussed at the meeting.

Manner of Notice

- 13.4 Written notice of a Meeting of Members under section 13.3 will be given by:
- (a) posting the notice in the Squiala First Nation administration office, at Squiala IR#8, and at the Meadowbrook Subdivision at least 14 days before the meeting; or
 - (b) mailing the notice to Members at least 14 days before the meeting.
- 13.5 Nothing precludes Council from holding a Meeting of Members in conjunction with any other meeting of Squiala First Nation, including an annual general meeting.

Quorum

- 13.6 The quorum at a Meeting of Members is 25 percent of the Eligible Voters. Where a quorum can not be reached at two consecutive meetings any matter that remains outstanding at the second meeting and any other new business will be decided by majority vote by secret ballot of the Eligible Voters present at the second meeting, including all Council members.

14. Ratification Votes

Approval by Ratification Vote

14.1 Approval by a Ratification Vote must be obtained prior to:

- (a) voluntary exchange of Squiala First Nation Land under section 17;
- (b) enactment of a Law or class of Law that Council, by Resolution, declares to be subject to this section.

Ratification Process

14.2 A Ratification Vote required under this Land Code will be conducted, with any appropriate modifications necessary in the circumstances, in substantially the same manner as that provided in the Squiala First Nation Ratification Process that was used to ratify this Land Code.

Requirements for Approval

14.3 A matter will be approved by a Ratification Vote if Squiala First Nation registers all Eligible Voters who signify, in a manner determined by Squiala First Nation, their intention to vote on the matter and if:

- (a) a majority of the registered voters vote to approve the matter; and
- (b) at least 25 percent of all Eligible Voters vote to approve the matter.

No Verifier

14.4 A Verifier is not required in a Ratification Vote under this Land Code.

PART 4 PROTECTION OF LAND

15. Expropriation by Squiala First Nation

Interests That May Be Expropriated

15.1 An Interest in Squiala First Nation Land or in any building or other structure on Squiala First Nation Land may be expropriated by Squiala First Nation in accordance with the Framework Agreement and a Law enacted in accordance with section 15.3 of this Land Code.

Squiala First Nation Purpose

- 15.2 An expropriation may be made under section 15.1 only for a necessary purpose or works of Squiala First Nation, including but not limited to a fire hall, sewage or water treatment facility, community center, public works, road, school, day-care facility, hospital, health care facility or retirement home.

Expropriation Law

- 15.3 If Council deems expropriation is necessary pursuant to section 15.2, Council will enact a Law in respect of the rights and procedures for expropriations, including provision in respect of:
- (a) taking possession of an expropriated Interest;
 - (b) transfer of an expropriated Interest;
 - (c) notice of expropriation;
 - (d) service of a notice of expropriation;
 - (e) entitlement to compensation;
 - (f) determination of the amount of compensation; and
 - (g) the method of payment of compensation.

Public Report

- 15.4 Before Squiala First Nation expropriates an Interest the Lands Manager will:
- (a) prepare a report on the reasons for the expropriation;
 - (b) post a copy of the report in the Squiala First Nation administration offices; and
 - (c) mail a copy of the report to each Eligible Voter at their last known address.

Rights That May Not Be Expropriated

- 15.5 An Interest of Her Majesty the Queen in right of Canada, or an Interest previously expropriated under section 35 of the *Indian Act* is not subject to expropriation under this Land Code.

Acquisition by Mutual Agreement

- 15.6 Squiala First Nation may expropriate an Interest in Squiala First Nation Land only after a good faith effort to acquire the Interest by mutual agreement.

Approval at a Meeting of Members

- 15.7 A Member's Interest may not be expropriated unless the proposed expropriation receives prior approval at a Meeting of Members.

Compensations for Rights and Interest

- 15.8 Squiala First Nation will, in accordance with its Laws and the Framework Agreement:
- (a) serve reasonable notice of an expropriation on each affected holder of the Interest to be expropriated; and
 - (b) pay fair and reasonable compensation to the holder of the Interest to be expropriated.

Compensation Calculation

- 15.9 The total value of compensation payable under section 15.8(b) will be based on:
- (a) the fair market value of the Interest being expropriated;
 - (b) the replacement value of any improvement to the land being expropriated;
 - (c) the damages attributable to a disturbance; and
 - (d) damages for reduction in the value of any remaining Interest.

Fair Market Value

- 15.10 The fair market value of an expropriated Interest is equivalent to the amount that would have been paid for the Interest if it had been sold on neighboring land by a willing seller to a willing buyer.

Neutral Evaluation to Resolve Disputes

- 15.11 Subject to section 15.13, the resolution of a dispute concerning the right of Squiala First Nation to expropriate will be determined by neutral evaluation in the same manner as provided in Part IX of the Framework Agreement.
- 15.12 The 60 day period referred to in clause 32.6 of the Framework Agreement will be applied, as appropriate in the circumstances, by the neutral evaluator.

Traditional Advisory Council to Resolve Disputes

15.13 The Traditional Advisory Council will ensure the resolution of the following disputes will be resolved in the same manner as provided in Part IX of the Framework Agreement or a manner as set out in another Law enacted for such a purpose:

- (a) a dispute concerning the right of the holder of an expropriated Interest or License to compensation; and
- (b) a dispute concerning the amount of compensation.

16. Heritage Sites

Committee Approval of Development

16.1 No development will be allowed on any site designated as a heritage site under a land use plan, unless the development receives approval by Council on the recommendation of the Lands Committee.

Land Use Plan

16.2 No amendment may be made to a land use plan to remove the designation of a heritage site unless the amendment receives approval by Council on the recommendation of the Lands Committee.

16.3 Within two years of ratifying this Land Code, the Lands Manager and the Lands Committee will develop a heritage site inventory.

17. Voluntary Land Exchange

Conditions for a Land Exchange

17.1 Squiala First Nation may agree with another party to exchange Squiala First Nation Land for land from that other party in accordance with this Land Code and the Framework Agreement.

No Effect

17.2 A land exchange is of no effect unless it receives prior approval by a Ratification Vote.

Land to be Received

17.3 A land exchange may proceed to a Ratification Vote only if the land to be received by Squiala First Nation:

- (a) is of equal or greater area than the Squiala First Nation Land to be exchanged;
- (b) is of a value comparable to the appraised value of the Squiala First Nation Land to be exchanged; and
- (c) becomes a reserve under the *Indian Act* and Squiala First Nation Land subject to this Land Code.

Negotiators

- 17.4 A person who negotiates a land exchange agreement on behalf of Squiala First Nation will be designated by Resolution.

Additional Compensation

- 17.5 Squiala First Nation may accept additional compensation, including money or other land in addition to the land referred to in section 17.3.
- 17.6 Other land accepted under section 17.5 may be held by or on behalf of Squiala First Nation in fee simple or otherwise.

Federal Consent

- 17.7 Before Squiala First Nation concludes a land exchange, it must receive a written statement from Canada stating that Her Majesty in right of Canada:
- (a) consents to set apart as a reserve subject to this Land Code the land to be received in the land exchange, as of the date of the land exchange or such later date as Council may approve by Resolution; and
 - (b) consents to the manner and form of the land exchange as set out in the land exchange agreement.

Information to Members

- 17.8 At least 30 days before the Ratification Vote provided for in section 17.2, the Lands Manager will provide the following to Members:
- (a) a description of the Squiala First Nation Land to be exchanged;
 - (b) a description of the land to be received by Squiala First Nation;
 - (c) a description of any additional compensation to be received;
 - (d) a report of a certified land appraiser stating that the condition in section 17.3(b) has been met;

- (e) a report from a Canada Lands Surveyor stating that the condition in section 17.3(a) has been met;
- (f) a copy of the land exchange agreement; and
- (g) a copy of the statement referred to in section 17.7.

Process of Land Exchange

17.9 A land exchange agreement will provide that:

- (a) the other party to the exchange will transfer to Canada the title to the land that is to be set apart as a reserve;
- (b) Council will pass a Resolution authorizing Canada to transfer title to the Squiala First Nation Land being exchanged in accordance with the land exchange agreement; and
- (c) a copy of the Instruments transferring title to the land will be registered in the Squiala First Nation Land Registry and the First Nations Land Registry.

PART 5 CONFLICT OF INTEREST

18. Conflict of Interest

Application of Rules

18.1 Section 18.2 applies to:

- (a) a member of Council who is dealing with a matter before Council that is related to Squiala First Nation Land;
- (b) an employee of Squiala First Nation dealing with a matter that is related to Squiala First Nation Land; and
- (c) a member of a board, committee or other body of Squiala First Nation dealing with any matter that is related to Squiala First Nation Land.

Duty to Report and Abstain

18.2 If there is any financial or proprietary interest in a matter being dealt with that might involve an individual referred to in section 18.1, the individual's Immediate Family or a business in which the individual holds an interest, that individual will:

- (a) disclose the interest to the Council, employment supervisor, board, committee or other body as applicable;
- (b) take no part in deliberations on the matter; and
- (c) take no part in a vote on the matter.

Common Interests

18.3 Section 18.2 does not apply to an Interest that is held by a Member in common with every other Member.

Meeting of Members

18.4 If Council is unable to vote on a proposed Law or Resolution due to a conflict of interest, Council may refer the matter to a Meeting of Members and the Members may enact the Law or Resolution.

Inability to Act

18.5 If a board, committee or other body is unable to act due to a conflict of interest, the board, committee or other body will refer the matter to Council and Council may decide the matter.

Disputes

18.6 Determination of whether a breach of this section has occurred may be referred to the Traditional Advisory Council.

Penalty

18.7 In addition to any other penalty that may be prescribed by a Law for breach of this part, an individual is liable and must account to Squiala First Nation for any benefit to himself, an Immediate Family member, or a business in which the individual holds an interest resulting from a violation of this part.

Conflict of Interest Policy

18.8 Council may enact a Conflict of Interest Policy as may be necessary to give effect to this Section.

**PART 6
FINANCIAL MANAGEMENT**

19. Financial Management

Application

19.1 This part applies only to financial matters in relation to Squiala First Nation Land administered under this Land Code.

Establishment of Bank Accounts

19.2 Council will maintain one or more accounts in a financial institution and will deposit in those accounts:

- (a) transfer payments received from Canada for the management and administration of Squiala First Nation Land;
- (b) moneys received by Squiala First Nation from the grant or disposition of Interests in Squiala First Nation Land;
- (c) all fees, fines, charges and levies collected under a Law or Resolution in relation to Squiala First Nation Land;
- (d) capital and revenue moneys received from Canada from the grant or disposition of Interests in Squiala First Nation Land; and
- (e) any other revenue received by Squiala First Nation from Squiala First Nation Land.

19.3 Council will continue or implement a system of financial planning and financial administration for the management of Squiala First Nation moneys through which Council, Squiala First Nation employees and other persons who manage moneys in relation to Squiala First Nation Land are accountable to the Members within the meaning of clause 5.2(d) of the Framework Agreement.

Financial Policy

19.4 Council will manage money related to Squiala First Nation Land in accordance with the Squiala First Nation Financial Policy and any other Law, policy or procedure adopted by Council for such purpose.

Signing Officers

19.5 A cheque or other bill of exchange or transfer drawn on a financial account maintained under section 19.2 must be signed by at least two members of Council.

19.6 A payee will not be a signor under section 19.5.

19.7 Every signing officer will complete such security screening process as may be prescribed by Council.

Fiscal Year

19.8 The fiscal year of Squiala First Nation will begin on April 1 of each year and end on March 31 of the following year.

Adoption of Budget

19.9 Council will, by Resolution, prior to the beginning of each fiscal year, adopt a land management budget for that fiscal year and may, if Council deems it necessary in the course of the fiscal year, adopt one or more supplementary budgets for that fiscal year.

19.10 Prior to adopting a budget referred to in section 19.9 Council will consult with the Lands Committee.

Procedure

19.11 After Council has adopted a land management budget or supplementary budget, the Lands Manager will as soon as practicable make a copy of the budget or supplementary budget available at the Squiala First Nation administration office for inspection by Members during regular business hours.

If No Budget

19.12 If Council fails to adopt a land management budget for the fiscal year prior to the beginning of the fiscal year, the budget and any other supplementary budget of the previous fiscal year will remain in effect until another budget is adopted.

Expenditures

19.13 Council may not expend moneys referred to in section 19.2 or commit, by contract or otherwise, to expend those moneys unless the expenditure is authorized under a Law or an adopted Budget.

Determination of Revenue

19.14 Council will establish a process for determining:

- (a) fees and rent for Interests in Squiala First Nation Land; and
- (b) fees for services provided in relation to Squiala First Nation Land; and

- (c) fees in relation to compliance with this Land Code.

20. Financial Records

Financial Records

- 20.1 Squiala First Nation will keep financial records in accordance with generally accepted accounting principles.

Preparation of Financial Statements

- 20.2 The Lands Manager, with the assistance of Squiala First Nation administration personnel, will within 90 days after the end of the fiscal year prepare quarterly financial statements and an annual financial statement in comparative form containing:
 - (a) a balance sheet;
 - (b) a statement of revenues and expenditures and a comparison of these with the amount stated in the land management budget and any supplementary budget; and
 - (c) any other information necessary for a full and fair presentation of the financial position of Squiala First Nation in relation to Squiala First Nation Land.

Consolidated Accounts

- 20.3 The accounting, auditing and reporting requirements of this Land Code may be consolidated with other accounts, auditing, and reports of Squiala First Nation.

21. Audit

Appointment of Auditor

- 21.1 For each fiscal year, Council will appoint a duly accredited auditor to audit the financial records maintained under this part.
- 21.2 An auditor appointed for other Squiala First Nation audits may be appointed under section 21.1.

Vacancy of Office

- 21.3 If a vacancy occurs during the term of an auditor, Council will forthwith appoint a new auditor for the remainder of the auditor's term.

Remuneration

- 21.4 An appointment under section 21.1 and 21.3 will contain a statement approving the remuneration to be paid to the auditor.

Duty of Auditor

- 21.5 The auditor will, within 90 days after the end of the Squiala First Nation fiscal year, prepare and submit to Council an audit report on the Squiala First Nation financial statement stating whether, in the opinion of the auditor, the financial statement presents fairly and accurately the financial position of Squiala First Nation in accordance with generally accepted accounting principles applied on a basis consistent with that applied in the previous fiscal year.

Access to Records

- 21.6 The auditor may at all reasonable times inspect any financial record of Squiala First Nation and the financial records of any person or body who is authorized to administer money related to Squiala First Nation Land.

22. Annual Report

Publish Annual Report

- 22.1 As soon as practicable after receiving an audit report under section 21.5, the Lands Manager will prepare and table with the Lands Committee and Council an annual report on Squiala First Nation Land management.
- 22.2 The annual report will include:
- (a) an annual review of Squiala First Nation Land management activities;
 - (b) a copy and explanation of the audit report as it applies to Squiala First Nation land; and
 - (c) such other matters as may be directed by Council or reasonably requested by the Lands Committee.

Copies for Members

- 22.3 A Member may, during regular business hours at the Squiala First Nation administrative office, have reasonable access to:
- (a) the audit report; and
 - (b) the annual report.

- 22.4 By written request to Council a Member may, during regular business hours at the Squiala First Nation administrative office, upon payment of a five (5) dollar fee or another amount set by Resolution, obtain a copy of the auditor's report or annual report.
- 22.5 Section 22.4 does not preclude Council from making a copy of the auditor's report or annual report available without fee.

Offences

- 22.6 A person who has control of the financial records of Squiala First Nation and who:
- (a) impedes or obstructs anyone from exercising a right to inspect those records; or
 - (b) fails to give all reasonable assistance to anyone exercising a right to inspect those financial records,
- is guilty of an offence under this Land Code.

PART 7 LAND ADMINISTRATION

23. Lands Committee

Committee Established

- 23.1 A Lands Committee is hereby established.
- 23.2 The purpose of the Lands Committee is to:
- (a) make recommendations to Council on development of the Squiala First Nation Land administration system;
 - (b) make recommendations to Council and Squiala First Nation staff on matters in respect of Squiala First Nation Land;
 - (c) recommend to Council Laws, Resolutions, policies and procedures in respect of Squiala First Nation Land;
 - (d) hold Meetings of Members and other meetings to discuss issues related to Squiala First Nation Land and make recommendations to Council on the resolution of such issues;

- (e) assist in the exchange of information between Members and Council regarding Squiala First Nation Land;
- (f) oversee other consultation under this Land Code; and
- (g) perform such other duties and functions as Council may direct.

Development of Rules and Procedures

- 23.3 Within a reasonable time after this Land Code comes into effect, Council will, in consultation with the Lands Committee, establish rules and procedures to address:
- (a) subject to Part V of the Framework Agreement, environmental protection and assessment in relation to Squiala First Nation Land; and
 - (b) section 37 in respect of spousal property and the policy upon which that section is based.

Implementation of Policies

- 23.4 Rules and procedures developed in accordance with section 23.3 will be given full and fair consideration by Council for implementation as Laws, policies or amendments to this Land Code.
- 23.5 Subject to Council requirements in respect of financial obligations, the Lands Committee may:
- (a) recommend policies for the remuneration and recovery of expenses incurred by Lands Committee members; and
 - (b) recommend programs for the orientation and education of Lands Committee members.
- 23.6 The Lands Committee will take reasonable measures to consult Elders with respect to matters in general under this Land Code, and particularly in respect of heritage lands and sacred lands.

24. Lands Committee Membership

Composition

- 24.1 The Land Committee will be comprised of seven Members selected by Council in accordance with this Section.

Eligibility

- 24.2 A Member, whether or not resident on Squiala First Nation Land, is eligible to be selected to sit on the Lands Committee except for:
- (a) an Eligible Voter convicted of an offence that was prosecuted by way of indictment or felony conviction within 10 years prior to the date of appointment;
 - (b) an Eligible Voter convicted of a corrupt practice in connection with an election, including accepting bribes, dishonesty or wrongful conduct; and
 - (c) an un-discharged bankrupt.
- 24.3 A non-Member resident of Squiala First Nation Land is eligible to be selected to sit on the Lands Committee subject to the conditions in section 24.2.

Composition of the Lands Committee Members

- 24.4 The Lands Committee will be comprised of:
- (a) at least one Council Member;
 - (b) at least one Elder;
 - (c) at least one Youth;
 - (d) at least one Member resident of IR #7;
 - (e) at least one Member resident of IR #8;
 - (f) at least one non-Member resident of IR #7 or IR #8; and
 - (g) the Lands Manager.
- 24.5 Council members other than the Council member selected under section 24.4(a) are members *ex officio* of the Lands Committee.

Term of Office and Vacancy

- 24.6 A member of the Lands Committee will serve in office until the end of that member's term or until that member:
- (a) resigns in writing;
 - (b) becomes ineligible to hold office under section 24.2;

- (c) if appointed under section 24.4(a), cease to be a member of Council;
- (d) ceases to be a Member;
- (e) where applicable, ceases to be a resident on Squiala First Nation Land;
- (f) is absent from three meetings of the Lands Committee for a reason other than illness or incapacity without being authorized to be absent by the Lands Manager;
- (g) is removed by Council upon the recommendation of the Lands Committee;
or
- (h) dies or becomes mentally incompetent.

Staggered Terms

24.7 Subject to section 24.6, the members of the first Lands Committee, other than the Lands Manager, will remain in office for at least one year after being selected and will after the expiry of that period, participate in a draw wherein two committee members will draw a one year term, two committee members will draw a two year term and two committee members will draw a three year term.

Staggered Term Commencement

24.8 At the expiry of each term established under section 24.7, a committee member selected to that position will serve for a term of three years.

Filling of Vacancy

- 24.9 Where the office of a member of the Lands Committee becomes vacant, the vacancy will be filled in accordance with section 24.2 and 24.4.
- 24.10 The Lands Manager will post in a public place, and mail or deliver, a notice of Lands Committee vacancy to the Members.
- 24.11 Applicants for selection to the Lands Committee will be interviewed by the Lands Manager.
- 24.12 The Council and the remaining Lands Committee members will select the successful applicants by consensus and will consider the results of the interviews conducted under section 24.11.

25. Chair of the Lands Committee

Chair

25.1 The Squiala First Nation Lands Manager will chair the Lands Committee.

Co-chair

25.2 The members of the Land Committee will appoint a Co-chair who will perform the functions of the Chair if the Chair is unavailable or unable to perform the functions of office.

Alternate

25.3 If the Chair or Co-chair is unavailable or unable to perform the function of office, the Lands Committee will appoint another member of the Lands Committee to serve as interim Chair.

Duties of the Chair

25.4 The duties of the Chair are to:

- (a) chair meetings of the Lands Committee;
- (b) ensure that financial statements relating to activities of the Lands Committee, including any applicable revenue or expenditures in relation to Squiala First Nation Land, are prepared and tabled with Council;
- (c) assign work to committee members, and set agendas for meetings;
- (d) ensure distribution of committee meeting minutes;
- (e) report to Council and Members on the activities of the Lands Committee;
- (f) monitor the presentation of the audited annual financial statement under section 20.2; and
- (g) perform such other duties as Council or the Lands Committee may prescribe.

26. Registration of Interests and Licenses

Squiala First Nation Land Registry

26.1 The Lands Manger will maintain a Squiala First Nation Land Registry in, at a minimum, the same form and with the same content as the First Nations Land Registry.

- 26.2 An Interest in Squiala First Nation Land created or granted after this Land Code comes into effect is not enforceable unless it is registered in the Squiala First Nation Land Registry.

Registration of Consent or Approval

- 26.3 No Instrument that requires the consent of Council will be registered in the Squiala First Nation Land Registry unless the document that records the consent or approval, or a certified copy thereof, is attached to the Instrument.

Duty to Deposit

- 26.4 Every person who receives a grant of an Interest in Squiala First Nation Land from a Member will deposit an original copy of the Instrument granting that Interest in the Squiala First Nation Land Registry.
- 26.5 The Lands Manager will ensure that a copy of the following Instruments is deposited in the Squiala First Nation Land Registry:
- (a) a grant of an Interest in Squiala First Nation Land;
 - (b) a transfer or assignment of an Interest in Squiala First Nation Land;
 - (c) a land use plan;
 - (d) a subdivision plan; and
 - (e) this Land Code and any amendment to this Land Code.
- 26.6 Notwithstanding section 26.1, nothing precludes Council from enacting a Law providing for maintenance of the Squiala First Nation Land Registry in such other land registry system or facility as may meet the requirements of the Squiala First Nation Land Registry.

27. First Nations Land Registry

- 27.1 The Lands Manager will ensure that a duplicate copy of any Instrument deposited in the Squiala First Nation Land Registry is deposited in the First Nations Land Registry.

**PART 8
INTEREST AND LICENSES IN LAND**

28. Limits on Interest and Licenses

All Dispositions in Writing

28.1 An Interest in Squiala First Nation Land may only be created, granted, disposed of, assigned or transferred by an Instrument issued in accordance with this Land Code.

Standards

28.2 Council may, after full and fair consideration of any recommendations made by the Lands Committee, establish mandatory standards, criteria and forms for Interests in Squiala First Nation Land.

Improper Transactions Void

28.3 An Instrument by which Squiala First Nation, a Member or any other person purports to create, dispose of, assign or transfer an Interest in Squiala First Nation Land after the date this Land Code comes into effect is void if it contravenes this Land Code.

Grants to Non-Members

28.4 The written consent of Council is a requirement of a grant or disposition of an Interest in Squiala First Nation Land to a person who is not a Member.

29. Existing Interest

Continuation of Existing Interests

29.1 An Interest in Squiala First Nation Land that is in effect when this Land Code comes into effect will, subject to this Land Code, continue in force in accordance with the terms and conditions of that Interest.

30. New Interests

Authority to Make Dispositions

30.1 Subject to section 30.4, Council may grant:

- (a) Interests in Squiala First Nation Land including but not limited to Certificates of Possession, Leaseholds, Licenses, Permits, Easements and rights-of-way; and

- (b) Licenses and Permits to take Natural Resources from Squiala First Nation Land.

Conditional Grant

- 30.2 A grant of an Interest, License or Permit may be made subject to written conditions.

Role of the Lands Committee

- 30.3 The Lands Committee may make recommendations to Council on the granting of Interests, Licenses and Permits and may be authorized by Council to act as a delegate of Council under this section.

- 30.4 Council will meet with the Lands Committee to receive input prior to:

- (a) any grant or disposition of an Interest in Squiala First Nation Land exceeding a term of 49 years;
- (b) a charge or Mortgage of a Leasehold interest;
- (c) any renewal of a grant or disposition of an Interest in Squiala First Nation Land that extends the original term beyond 49 years; and
- (d) any grant or disposition of Natural Resources on Squiala First Nation Land that exceeds a term of 5 years.

31. Certificates of Possession

Application

- 31.1 This section codifies the rights attached to Certificates of Possession, whether issued under section 20(2) of the *Indian Act* or under this Land Code.

Nature of Interest

- 31.2 Subject to this Land Code, a Certificate of Possession in respect of a parcel of Squiala First Nation Land is an Interest that entitles the Member holding the Interest to:

- (a) permanent possession of the land;
- (b) benefit from the resources arising from the land;
- (c) subject to a land use plan or zoning Law, grant subsidiary Interests in the land, including Licenses or Permits to take resources from the land;

- (d) transfer, devise or otherwise dispose of the land to another member; and
 - (e) any other rights, consistent with this Land Code, that are attached to Certificates of Possession under the *Indian Act*.
- 31.3 Notwithstanding any other provision of this Land Code, a person who is not a Member may not hold a Certificate of Possession or other permanent Interest in Squiala First Nation Land.
- 31.4 Council may allocate a Certificate of Possession to a Member for residential purposes if:
- (a) the subject lands are shown on a land use plan as designated residential;
 - (b) the subject lands are surveyed; and
 - (c) the Member provides evidence of being capable of financing and building a residence without financial assistance from Squiala First Nation.
- 31.5 No Certificate of Possession that exceeds one-half acre will be granted for residential purposes unless a larger area is required due to the condition of the land unless otherwise specified on a land use plan.

32. Allocation of Residential Land

Allocation of Residential Lots

- 32.1 Council may, by Lease or other disposition, allocate lots of Band Land to Members for residential purposes.
- 32.2 No lot may be allocated under section 32.1 to a person who is not a Member.

33. Transfer and Assignment of Interests

Transfer and Assignment

- 33.1 Council may enact Laws providing that a Member holding an Interest in Squiala First Nation Land may transfer or otherwise dispose of that Interest.

Transfer of Certificate of Possession for a Leasehold

- 33.2 Where, under a written agreement between Squiala and a Member, a Certificate of Possession is cancelled for the purpose of granting a Member a Leasehold Interest for no more than 99 years to assist the Member to obtain appropriate financing, Council will by Resolution grant a new Certificate of possession of the subject lands when all the terms of the written agreement have been satisfied provided the Member is not in breach of any of the terms of the agreement.

Transfer of Certificate of Possession for Housing, Guarantee or Other Purposes

- 33.3 Where, under a written agreement between Squiala and a Member, a Certificate of Possession is cancelled for the purpose of allowing a Member to participate in a housing program authorized by Squiala or for other authorized purposes, Council will by Resolution grant a new Certificate of possession of the subject lands when all the terms of the written agreement have been satisfied provided the agreement contemplates that a new Certificate of Possession will be granted and the Member is not in breach of any of the terms of the agreement.

Certificate of Possession After a Foreclosure

- 33.4 Where, under a Mortgage between a Member and Squiala pursuant to the Land Code there is a default by the Member and where as a result of Squiala exercising its right of foreclosure under the Mortgage the Member's Certificate of Possession is cancelled and the Member has no further interest in the lands, Squiala may sell the subject lands for a price at least equal to the amount owing under the Mortgage and any costs and expenses incurred in the foreclosure and sale proceedings and Council may by Resolution grant a Certificate of Possession of the subject lands to the purchasing Member.

Consent of Council

- 33.5 Except for transfers that occur by operation of Law, including transfers of estates by testamentary disposition or in accordance with a Law enacted under section 37:
- (a) there will be no transfer or assignment of an Interest in Squiala First Nation Land without the written consent of Council; and
 - (b) the grant of an Interest is deemed to include section 33.5(a) as a condition of any subsequent transfer or assignment.
- 33.6 In considering whether to give consent under section 33.5(a), Council will take into account the impact of the transfer on any arrangements made for social housing including the impact on any security provided for such housing.

34. Limits on Mortgages and Seizures

Protections

- 34.1 In accordance with the Framework Agreement, sections 29, 87, 89(1) and 89(2) of the *Indian Act* continue to apply on Squiala First Nation Land.

Mortgage of a Member's Interest

- 34.2 The Interest of a Member in Squiala First Nation Land other than a Leasehold Interest may be subject to a Mortgage or charge only to Squiala First Nation.

Mortgages of Leasehold Interest with Consent

34.3 A Leasehold Interest may be subject to a Mortgage or charge only with the written consent of Council.

Time Limit

34.4 The term of any Mortgage or charge of a Leasehold Interest will not exceed the lesser of:

- (a) the term of the Lease;
- (b) 25 years; or
- (c) such longer period as may receive approval by Council.

Default in Mortgage of Leasehold

34.5 In the event of default in a Mortgage or charge of a Leasehold Interest, the Leasehold Interest is not subject to possession by the mortgagee or chargor, foreclosure, power of sale or any other form of execution or seizure, unless:

- (a) the Mortgage or charge received the written consent of Council;
- (b) the Mortgage or charge was registered in the Squiala Lands Register; and
- (c) 90 days or such longer period as may be reasonable in the circumstances to redeem the Mortgage or charge was given by the mortgagee or chargor to Council.

Power of Redemption

34.6 If Council exercises its power of redemption with respect to a Leasehold Interest, Squiala First Nation becomes the lessee of the land and takes the position of the mortgagee or chargor for all purposes after the date of the redemption.

35. Residency and Access Rights

Civil Remedies

35.1 Subject to a Law enacted under section 6.2(l), 6.2(m), or 6.2(n), all civil remedies are preserved.

No obligation on the First Nation

35.2 A right of residence or access does not imply any financial obligation on the part of Squiala First Nation.

No Liability

35.3 No liability is imposed upon Squiala First Nation in respect of any person exercising a right of access in accordance with this Land Code for injuries or damages suffered on account of the condition or state of Squiala First Nation Land.

36. Transfer on Death or Mental Incompetence

Right of Widow or Widower

36.1 In the event that:

- (a) a Member holding an Interest in Squiala First Nation Land dies intestate and is survived by a Spouse or dependant, or both as the case may be who do not hold a registered Interest in that land; or
- (b) a Member holding an Interest in Squiala First Nation Land is declared incompetent due to mental incapacity,

the Member's Spouse or dependant, or both as the case may be may, where their usual place of residence was with the Member at the time of the Member's death or declaration of incompetence, continue to reside on and use the land until the Member's Interest is disposed of under this Part.

36.2 A spouse or dependant referred to in section 36.1, whether or not their usual place of residence was with the Member at the time of the Member's death or declaration of incompetence, may make application for transfer of the Members Interest, and Council will, subject to this Land Code, evaluate the application on its merits for recommendation to the Minister of Indian and Northern Affairs.

Location of Family Members

36.3 In the event that:

- (a) no other provision has been made by a Member referred to in section 36.1 for the disposition of the Interest in Squiala First Nation Land; or
- (b) the Member's Spouse or dependant does not within 120 days make application under section 36.2; or

- (c) a member of the Member's Immediate Family disputes the continued residence on and use of the land by the Member's Spouse or dependant,

Council will take reasonable steps to advise other members of the Member's Immediate Family that the Interest held by the Member is available for disposition or is in dispute and the Member's Immediate Family may, with the assistance of the Traditional Advisory Council if requested, recommend to the Minister of Indian and Northern Affairs who should receive the Interest.

Meeting of Members

- 36.4 If a member referred to in section 36.1 has no other Immediate Family, or if the Immediate Family does not within a reasonable period of time after the date of such Member's death or declaration of incompetence recommend who is to receive the Interest, Council will decide who to recommend to the Minister of Indian and Northern Affairs is to receive the Interest and may call a Meeting of Members to provide advice on the disposition of the Interest.
- 36.5 Subject to this Land Code, Council will make best efforts to influence the Minister of the Department of Indian and Northern Affairs to implement a recommendation made under section 36.3 or 36.4.

37. Spousal Property Law

Development of Rules and Procedures

- 37.1 Within twelve months after the date this Land Code comes into effect Council will enact a spousal property Law applicable on the breakdown of a marriage to:
 - (a) the use, occupancy and possession of Squiala First Nation Land; and
 - (b) the division of Interest in that land.

Enactment of Rules and Procedures

- 37.2 For greater certainty, the spousal property Law enacted under section 37.1 will be developed by the Lands Committee in consultation with the Members.

General Principles

- 37.3 The spousal property Law enacted under section 37.1 will take into account the following general principles:
 - (a) each spouse should have an equal right to possession of the matrimonial home;
 - (b) each spouse should be entitled to an undivided half interest in the matrimonial home, as a tenant in common;

- (c) regard for the best interests of any children of the marriage;
- (d) the distinction between Members and non-Members for the purpose of determining what Interest in Squiala First Nation Land may be held by an individual; and
- (e) the rules and procedures will not discriminate on the basis of sex.

Interim Law

- 37.4 Council may enact an interim spousal property Law at any time within the twelve month period prescribed in section 37.1.
- 37.5 An interim Law enacted under section 37.4 will be deemed to be repealed twelve months after the coming into force of this Land Code but may be re-enacted in whole or as amended, in accordance with section 37.1.

PART 9 DISPUTE RESOLUTION

38. Traditional Advisory Council for Disputes

Informal Resolution of Disputes

- 38.1 Squiala First Nation intends that wherever possible disputes will be resolved through informal discussion by the parties to the dispute and nothing in this part will be construed to limit the ability of the parties to a dispute to settle the dispute without recourse to this Part.

Traditional Advisory Council

- 38.2 The Traditional Advisory Council has jurisdiction to hear and resolve disputes in relation to Squiala First Nation land.

No Remuneration

- 38.3 Unless Council by Resolution provides otherwise, Traditional Advisory Council members are to act on a volunteer basis and receive no remuneration for their services under this Part.

39. Dispute Procedure

Disputes

- 39.1 Any dispute related to Squiala First Nation Land may be referred to the Traditional Advisory Council for resolution.

Prior Disputes

- 39.2 For greater certainty, disputes that originated before the Land Code comes into affect may be referred to the Traditional Advisory Council.

Optional Process

- 39.3 A referral to the Traditional Advisory Council is optional and all other civil remedies continue to be available to a party of the dispute.

Disputes with Council or Lands Committee

- 39.4 If any person with an interest in Squiala First Nation Land has a dispute with the Lands Committee or with the Council, the person must first attempt to resolve the issue with the Lands Committee or the Council, as the case may be, before referring the dispute to the Traditional Advisory Council.

Application Procedure

- 39.5 A referral to the Traditional Advisory Council will be made in accordance with procedures established by Council and the Traditional Advisory Council.

Limitations Period

- 39.6 The Traditional Advisory Council has no jurisdiction to hear a dispute that is referred to it more than:
- (a) 30 days after the day the decision, act or omission that is the subject of the dispute occurred;
 - (b) in the case of an estate dispute under section 36, 12 months after the final recommendation of Council under section 36; or
 - (c) in the case of a dispute with the Lands Committee or Council, 30 days after the Lands Committee or Council rejects an attempt at resolution under section 39.4.

40. Impartiality

Duty to Act Impartially

- 40.1 The Traditional Advisory Council will act impartially and without bias or favour to any party in a dispute.

Offence

- 40.2 It is an offence for a person to act, or attempt to act, in a way to improperly influence a decision of the Traditional Advisory Council.

Rejection of Application

- 40.3 In addition to any other sanction, the Traditional Advisory Council may refuse to hear a dispute referred to it if the Traditional Advisory Council believes that the applicant acted, or attempted to act, in a way to improperly influence the Traditional Advisory Council's decision.

41. Powers of Traditional Advisory Council

Power of Traditional Advisory Council

- 41.1 The Traditional Advisory Council may, after hearing a dispute:
- (a) confirm or reverse the decision, in whole or in part;
 - (b) substitute its own decision for the decision in dispute;
 - (c) direct that an action be taken or ceased; or
 - (d) refer the dispute back to the decision-maker for reconsideration.

Rules of Traditional Advisory Council

- 41.2 The Traditional Advisory Council may establish rules of procedure for its hearings and generally for the conduct of its affairs.

Professional Services

- 41.3 The Traditional Advisory Council may obtain the service of professionals to assist in fulfilling its function, in which case it will make best efforts to use professional services available in the community.

Written Decisions

- 41.4 Decisions of the Traditional Advisory Council will be in writing, signed by the person chairing the Traditional Advisory Council.

Reasons

- 41.5 The Traditional Advisory Council will give reasons for its decisions, and will give written reasons for its decisions if so requested by a party to the proceedings within 14 days of the date of the decision.

Appeal of Decision

- 41.6 A decision of the Traditional Advisory Council is binding but, subject to any exception established by a Law, may be appealed to a court of competent jurisdiction.

Costs

- 41.7 Unless otherwise ordered by the Court, the parties to a dispute will bear their own costs.

Alternate Forums

- 41.8 Nothing in this part precludes Council or the Lands Committee from establishing additional processes for resolving disputes under this part, which processes may include facilitated discussion, mediation, arbitration or referral to an alternate forum.

PART 10 OTHER MATTERS

42. Liability

Liability Insurance

- 42.1 Council will arrange for, maintain and pay insurance coverage for:
- (a) liability of Squiala First Nation in relation to Squiala First Nation Land; and
 - (b) personal liability of Squiala First Nation officers and employees for acts done in good faith while engaged in carrying out duties related to Squiala First Nation Land.

Extent of Coverage

- 42.2 Council will determine the extent of insurance coverage under section 42.1.

43. Enforcement

Application of the Criminal Code

- 43.1 Unless otherwise provided by a Law, the summary conviction procedures of Part XXVII of the *Criminal Code* apply to offences under this Land Code and offences under a Law.

Justices of the Peace

- 43.2 Council may enact Laws in respect of appointment of justices of the peace for the adjudication of this Land Code and Laws.

Provincial Courts

- 43.3 If no justice of the peace is appointed, this Land Code and Laws are to be enforced in a court of competent jurisdiction.

44. Amendment

Meeting of Members

- 44.1 An amendment of this Land Code must receive prior approval at a Meeting of Members.

Ratification Vote

- 44.2 Where an amendment proposed under section 44.1 can not be decided due to a lack of quorum or a lack of consensus, Council may by Resolution refer the matter to be decided by Ratification Vote.
- 44.3 Notwithstanding section 44.1, an amendment of this Land Code which establishes a permanent Interest in Squiala First Nation must receive prior approval by a Ratification Vote.

45. Commencement

Ratification

- 45.1 This Land Code will be ratified if:
- (a) the Members approve this Land Code and the Individual Agreement by a Ratification Vote; and
 - (b) this Land Code has been certified by the Verifier in accordance with the Framework Agreement.

Effective Date

- 45.2 This Land Code will come into effect on the later of:
- (a) the first day of the month following certification of this Land Code by the Verifier, or
 - (b) the date the Individual Agreement is executed on behalf of Canada.