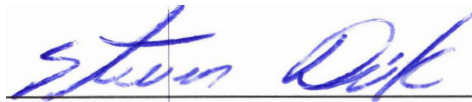




**KWIAKAH FIRST NATION
LAND INTERESTS AND REGISTRATION LAW**

The enactment is hereby certified by the members of the Council on September 10, 2026.


Chief Steven Dick


Councillor Andrean Dick

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1415-3746-7423, v. 3

LAND INTERESTS AND REGISTRATION LAW

PREAMBLE

- A. Kwiakah First Nation passed the *Kwiakah First Nation Land Code*, dated for reference May 31, 2023, in accordance with the Framework Agreement on First Nation Land Management between Kwiakah First Nation and Canada and ratified on behalf of the Government of Canada by the *Framework Agreement on First Nations Land Management Act*, SC 2022, c 19, s 121;
- B. The *Kwiakah First Nation Land Code* came into effect on July 1, 2023;
- C. Pursuant to section 23.1 of the *Kwiakah First Nation Land Code*, Council may establish Land Laws respecting Member Only Interests; and
- D. Pursuant to section 24.1 of the *Kwiakah First Nation Land Code*, Council may establish Land Laws respecting the granting, disposing of, transferring, renewing or assigning of Interests.

NOW THEREFORE the Council of the Kwiakah First Nation enacts as follows:

1. CITATION

- 1.1 This Law may be cited as the Land Interests and Registration Law.

2. PURPOSE

- 2.1 The purpose of this Law is to set out the principles, rules and administrative procedures for
- (a) the acquisition, disposition, transfer and registration of Interests and Licences in Kwiakah Lands; and
 - (b) any matter arising out of or ancillary to the foregoing.

3. INTERPRETATION

Land Code Interpretive Principles Apply

- 3.1 In this Law,
- (a) the principles of interpretation in sections 5.1 to 5.7 of the Land Code apply;
 - (b) the use of the words “will”, “must” or “shall” denotes an obligation that, unless the Law provides otherwise, must be carried out as soon as practicable after the event that gives rise to the obligation;
 - (c) where the Law contains a reference to a number of days or a number of days between two events, the days on which the events happen are excluded in calculating that number of days;
 - (d) unless it is otherwise clear from the context,
 - (i) 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”;

- (ii) the use of the singular includes the plural, and the use of the plural includes the singular;
- (iii) the use of the neuter gender includes the masculine and the feminine;
- (e) a reference to a statute, including the Land Code and any Law, includes every amendment to it, every regulation made under it, and any Law enacted in substitution of it or replacement for it; and
- (f) the headings of sections in this Law have been inserted as a matter of convenience and reference, and in no way define or limit any provision.

Definitions

3.2 In this Law, capitalized words and expressions have the same meaning as in the Land Code; and

"Development Permit" has the same meaning as in the *Subdivision, Development and Servicing Law*;

"Immediate family", when used in reference to a Person referred to in that section, means any of the following who resides with that Person:

- (a) the spouse of that Person;
- (b) a parent or child of that Person;
- (c) any relative of that Person or of that Person's spouse;

"Kwiahkah" means the Kwiahkah First Nation;

"Manager" means the senior Kwiahkah official responsible for administering this Law, and includes a delegate;

"Occupation Agreement" means an agreement between Kwiahkah and a Member respecting the terms under which that Member may exercise their right to occupy a residence under a Residential Allocation;

"Person" means any natural Person, corporation, government (including Kwiahkah), and except where stated otherwise, any Member;

"Privately Owned Home" means a home or residence located on Lands, where the Member has a legal right of possession to the home or residence;

"Recommendation" means a recommendation of a Manager under 10.10; and

"Residential Allocation" means a residential Member Only Interest providing for a right of occupation to a residence on Kwiahkah Lands but does not include a right of possession over the Kwiahkah Lands to which it is made subject.

4. APPLICATION

Kwiahah Lands

- 4.1 This Law applies to acquisitions, dispositions, transfers and registration of Interests and Licences in Lands.

Natural Resources

- 4.2 Unless specifically provided in the instrument granting an Interest or Licence, an Interest or Licence does not include any rights to Natural Resources, and all rights to Natural Resources are reserved for the benefit of Kwiahah.

5. GENERAL PROVISIONS

Validity

- 5.1 Nothing under this Law will be rendered void or invalid by:
- (a) an error or omission in a notice, form or other document given or authorized under this Law; or
 - (b) a failure of Kwiahah, a Kwiahah official or delegate to do something within a required time.

Severability

- 5.2 Where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

6. DELEGATION

- 6.1 The Manager may, in writing, delegate the performance of any duty under this Law to any individual under the Manager's supervision.

7. RESIDENTIAL ALLOCATIONS

Nature of Residential Allocation

- 7.1 Subject to the Land Code and any other Land Laws, a Residential Allocation in respect of a parcel of Kwiahah Lands is an Interest that entitles the Member holding it to
- (a) occupy a Residence on Kwiahah Lands in accordance with an Occupation Agreement with respect to that Residence;
 - (b) subject to the terms of any Occupation Agreement, dispose of the Residential Allocation through testamentary disposition; and

- (c) with the consent of Council, transfer the Residential Allocation to another Member.
- 7.2 For clarity, a Residential Allocation provides the Member holding it with a right to occupy a Residence on Kwiakah Lands, but does not transfer a right of possession to those Lands on which the Residence is situated and does not grant them any rights of ownership in the Residence.
- 7.3 A Member may only hold one Residential Allocation.
- 7.4 Despite section 7.3, a Member may hold more than one Residential Allocation if the Residential Allocation which is not being used by them for their personal Residence is
 - (a) held by that Member in trust for a Member beneficiary; or
 - (b) is being or will imminently be renovated, repaired, condemned, or demolished by Kwiakah.

General Criteria for Granting a Residential Allocation

- 7.5 A Residential Allocation may only be granted in accordance with this Law.
- 7.6 A Residential Allocation may only be granted to a Member.
- 7.7 A Residential Allocation may only be granted for the purposes of a primary residence for the applicant Member and their Immediate Family.

Application Process for Residential Allocation

- 7.8 Any Member may make application for a Residential Allocation by completing an application and submitting the application to the Lands Department.
- 7.9 Upon receipt of an application under section 7.8, the Manager shall review the application for completeness and, if deemed complete, shall forward the application and any supporting materials to Council.

Decision by Council

- 7.10 In deciding whether to approve an application under section 7.8, Council may have regard to the following factors:
 - (a) the availability of residences relative to Kwiakah population;
 - (b) the age and financial situation of the applicant;
 - (c) whether there are or will soon be Member children in the applicant's family;
 - (d) whether the applicant's current residence is over-crowded;

- (e) whether the granting of a Residential Allocation is in the best interests of Kwiakah; and
- (f) any other factor Council may deem relevant to its decision.

7.11 After consideration of the factors in section 7.10, Council shall

- (a) approve the application; or
- (b) reject the application.

Ceasing to be a Member

7.12 A Person who ceases to be a Member shall within three months of ceasing to be a Member make application to transfer any Residential Allocation they hold to another Member.

7.13 Where a Member does not make an application in accordance with section 7.12, any Residential Allocation shall, three months and one day after the Person ceases to be a Member, be cancelled and the Residence described in the document evidencing the Residential Allocation shall automatically become available to be granted to a Member.

7.14 Where a Residential Allocation is cancelled under section 7.13

- (a) any individual ceasing to be a Member shall remain liable for any obligations or liabilities or any monies owing pursuant to any Interests they held or Occupation Agreements they were a party to prior to the date the Residential Allocation is cancelled; and
- (b) any personal property of the individual ceasing to be a Member shall, if not retrieved by the individual within seven calendar days of the cancellation, be disposed of at Council's discretion.

7.15 Where Council causes personal property of the individual ceasing to be a Member to be sold under section 7.14(b), Council is under no obligation to provide the proceeds or sale or any portion thereof to the individual ceasing to be a Member.

Correction or Cancellation of a Residential Allocation

7.16 Council may, by Council Resolution:

- (a) correct the names or other details on an Instrument evidencing a Residential Allocation; or
- (b) Cancel or revoke a Residential Allocation.

7.17 If Council corrects or cancels a Residential Allocation under section 7.16, Council shall:

- (a) direct the Manager to register the Residential Allocation or the correction or cancellation in the First Nations Land Register.

Falsified applications

- 7.18 Any Member who makes an application for a Residential Allocation under section 7.8 and includes individuals who do not validly reside with them, or otherwise falsifies information on their housing application, may have their application cancelled and be prohibited from making subsequent applications for a period of time to be determined by Council.

8. HOUSING AUTHORITY

- 8.1 Council may establish a Housing Authority to be responsible for the management and administration of Occupation Agreements.

9. BARE LAND LEASES FOR HOME OWNERSHIP

- 9.1 Kwiakah may enter into a bare land lease with any Member to facilitate that Member's building of a Privately Owned Home on the leased Land.
- 9.2 Any Member who enters into a lease agreement under section 9.1 must comply with all Kwiakah housing policies and Laws.
- 9.3 For further certainty, home ownership does not create an interest in the Land on which the Privately Owned Home is built.

10. APPLICATION FOR INTEREST OR LICENCE

Application for new Interest

- 10.1 A Person seeking an Interest or Licence in Kwiakah Lands must (a)
submit a completed application to the Manager; and
(b) pay any applicable fees.
- 10.2 Chief and Council have discretion to waive fees.

Application to grant, dispose of, transfer, assign or renew existing Interest

- 10.3 A Person seeking to grant, dispose of, transfer, assign or renew a leasehold or other subsidiary Interest in Kwiakah Lands must
(a) submit a completed application to the Manager; and
(b) pay any applicable fees.

Application to encumber existing Interest

- 10.4 A Person seeking to encumber an existing interest through mortgage or other charge must
(a) submit a completed application to the Manager; and

- (b) pay any applicable fees. .

10.5 The term of any charge or mortgage of a leasehold Interest must not exceed the term of the lease.

Manager review

10.6 Within 30 days of receiving an application under this Part 10 and any applicable fees, the Manager will:

- (a) if the application is made by a corporation, verify that the corporation is in good standing pursuant to the rules of the applicable corporate registry and is eligible to do business in British Columbia;
- (b) determine the applicant's eligibility for the Interest or Licence to which the application relates, where applicable;
- (c) review the application for completeness and compliance with applicable requirements; and
- (d) if the application is incomplete, notify the applicant in writing of any additional information needed to complete the application.

Incomplete applications

10.7 The Manager has no obligation to take any further action on an application until the applicant provides all of the information required by the notice in section 10.6(d).

Concurrent applications

10.8 An applicant may apply concurrently for a Development Permit under any the *Subdivision, Development and Servicing Law* or similar Land Law.

10.9 If an application under this section is made concurrently under section 10.8, the Manager will not forward any such application for review by Council until all applications are complete and ready for review.

Forwarding application to Council

10.10 Once the Manager determines that an application is complete under section 10.6(c), the Manager will

- (a) review the application;
- (b) carry out consultation with Members and other interested parties, if required;
- (c) make a written recommendation to Council to approve the application, approve it with conditions, or reject it;
- (d) if the recommendation is to approve the application or approve it with conditions, create a draft instrument **using the applicable form**; and

- (e) forward the recommendation, the draft instrument and all application materials to the Council.

11. DECISIONS ON APPLICATIONS

Council review

11.1 Upon receiving materials from the Manager, Council will

- (a) review the application, the draft instrument and the applicable factors in section 12.1.
- (b) determine whether it is required to
 - (i) convene a Meeting of Members to receive community input before making a final decision; and/or
 - (ii) hold a Ratification Vote; and
- (c) give full and fair consideration to any recommendation of the Manager that the Council hold a Ratification Vote.

11.2 If Council determines that it is required to undertake any of the steps in sections 11.1(b), it shall cause those steps to be carried out prior to making a decision on the application.

Council decision

11.3 After considering the matters in section 11.1, Council shall

- (a) approve the application;
- (b) approve the application subject to terms and conditions; or
- (c) reject the application.

11.4 Council may refuse to approve a proposed assignment, mortgage, or grant of a subsidiary Interest if:

- (a) the proposed assignee or borrower has poor credit or a history of non-payment of rent or taxes;
- (b) within the past two years, in any jurisdiction in Canada, a proposed assignee or a proposed grantee of a subsidiary Interest
 - (i) has been charged or sued for damage to the environment;
 - (ii) has been involved in a lawsuit or dispute regarding an Interest in land; or
- (c) in the opinion of the Council,

- (i) the terms of a proposed assignment or mortgage suggest that the terms were not negotiated fairly and in good faith; or
- (ii) the assignment or grant of a lease is not in the best interests of Kwiakah or its Members.

Form of instrument

- 11.5 If Council approves an application under section 11.3, it will execute the instrument forwarded by the Manager with any modifications and provide a copy to the applicant.

Form of Council consent for registration purposes

- 11.6 If Council approves an application under section 11.3 it will document its consent in writing.

When written reasons required

- 11.7 Council will provide written reasons for a decision under section 11.3:
- (a) to the applicant, if Council rejects the application; or
 - (b) to the Manager, if Council makes a decision contrary to the Recommendation of the Manager.
- 11.8 For greater certainty, a decision contrary to the Recommendation of a Manager includes a decision to vary or reject a term or condition proposed by the Manager.

12. APPLICATION REVIEW FACTORS

- 12.1 Council will consider the following factors in considering an application, where relevant:
- (a) compliance with applicable land use plans, zoning Laws, and other Laws of the Kwiakah;
 - (b) compliance with any applicable federal or provincial enactment;
 - (c) consistency with Kwiakah housing policies;
 - (d) whether the applicant has sufficient resources to develop the Land in a manner consistent with the terms of the proposed Interest or Licence;
 - (e) an applicant or proposed assignee's credit rating and financial history;
 - (f) an applicant or assignee's environmental record;
 - (g) an applicant or assignee's history of legal or other disputes in relation to Interests in Land;
 - (h) whether the proposed Interest or Licence is proportional and appropriate to the intended use;

- (i) protection and enhancement of cultural and heritage resources and sites;
- (j) environmental protection and enhancement;
- (k) compatibility with Kwiakah culture;
- (l) the nature of the proposed Interest or Licence in relation to the character of the zone, neighbourhood and existing buildings in the area;
- (m) potential impacts on adjacent users, Interest holders and occupants;
- (n) any information provided by the applicant;
- (o) in relation to the same activity or the same parcel of Kwiakah Lands, any existing Interest or Licence issued under this Law, and any Development Permit issued under the *Subdivision, Development and Servicing Law*; and
- (p) any other factors which may have an impact on the community or Kwiakah Lands or Kwiakah assets.

13. REGISTRATION

Effect of Registration

- 13.1 The effect of registering an Interest or Licence in the Kwiakah First Nation Lands Register is to make such an Interest or Licence valid and enforceable.

No Liability for Kwiakah

- 13.2 Notwithstanding section 33 of the Land Code, neither Kwiakah nor any Kwiakah Council member, officer, employee or contractor is responsible or liable for any claims, damages, diminished values, or losses of any kind, relating to registration or flawed or failed registration of any Instrument under this Law.

No Creation or Grant

- 13.3 Registration of an Interest or Licence in accordance with this Law does not constitute the creation or grant of an Interest of Licence pursuant to Part X of the Land Code.

Application to be Submitted to the Lands Department

- 13.4 To apply for the registration or recording in the First Nations Land Register of an Instrument that affects Kwiakah Lands, an applicant must submit an application to the Lands Department in Person, by mail, or email.

Application Form and Fees

- 13.5 The application under section 13.4 must be prepared using the applicable form and contain:
- (a) any **applicable fees**;

- (b) if required, a matrimonial property declaration;
- (c) one original copy of the Instrument to be registered; and
- (d) any other information, document or form that the Lands Department, in its sole discretion, requests that the applicant provide.

Affidavits for Individuals Unable to Sign

13.6 When an Instrument submitted to the Lands Department for registration is not executed by means of a signature in writing, an affidavit of witness must be completed in full.

Affidavits for Individuals Unable to Read

13.7 When an Instrument submitted to the Lands Department for registration is executed by a Person who may be unable to read the Instrument (for reasons including but not limited to physical disability, illiteracy, or lack of understanding of the English Language), the following are required:

- (a) a statement to this effect must appear on the Instrument; and
- (b) an affidavit of witness must be completed in full.

Instruments Executed by a Guardian ad litem, an Agent with Power of Attorney, or a Trustee

13.8 An Instrument submitted for registration that is executed by a guardian ad litem, an agent under a power of attorney or a trustee will not be approved unless:

- (a) the guardian, agent or trustee has executed the Instrument and has indicated the capacity in which the guardian, agent or trustee is executing it; and
- (b) the Instrument is accompanied by:
 - (i) the original appointment of the guardian or trustee or the original power of attorney, as the case may be; or
 - (ii) a copy of the original appointment of the guardian approved by the appropriate court, or a copy of the original power of attorney certified by the Person with custody of the original.

Interests Held in Trust

13.9 If applicable laws permit an Interest to be held in trust, any Instrument purporting to grant an Interest to a trustee or to a guardian in trust must be accompanied by a document that authorized the guardian or trustee, such as (and including) a trust deed or court order.

Interests Possessed by minors

13.10 Only a trustee or guardian ad litem may register an instrument affecting an Interest held by a minor.

Estate Interests

13.11 When the personal representative of an estate applies to register an Instrument purporting to affect an estate-held Interest, they must prove their authority to represent the estate by providing one of the following:

- (a) a certified copy of the approval of will and attached certified copy of the will;
- (b) a certified copy of the appointment of administrator of estate; or
- (c) a court-certified copy of the letters probate.

Estate Interests – Passage of Time

13.12 When the personal representative of an estate applies to register an Instrument purporting to affect an estate-held Interest other than to distribute the Interest to the heirs or beneficiaries, and more than one year has passed since the personal representative was appointed or approved, then they must also provide at least one of the following:

- (a) written consent of the heirs or beneficiaries, as applicable;
- (b) terms of any trust empowering the personal representative to transfer, encumber, or otherwise affect the Interest held by the estate;
- (c) an original or court-certified copy of an applicable court order; or
- (d) an original or certified copy of an applicable order of the Minister.

Life Estate

13.13 An Instrument purporting to grant a life estate to a Person who is not a Member will not be approved for registration unless

- (a) it is supported by evidence that the beneficiary of the life estate is an Immediate Relative of a Member in the form requested by the Manager;
- (b) it sets out the Member to whom the Interest or right that is subject of the life estate will transfer upon the death of the beneficiary;
- (c) the beneficiary of the life estate is entitled to reside on Lands and is not prohibited from residing on Lands by operation of any law; and
- (d) it is subject to conditions that the life estate shall terminate and registration shall be cancelled by the Manager:
 - (i) upon the death of the beneficiary of the life estate; and
 - (ii) in accordance with any other conditions specified in the life estate.

Manager to Approve as to Form

13.14 Before an application can be submitted for registration or recording in the Kwiakah First Nation Land Register, the Manager must confirm that the application is in the correct form and suitable to be registered.

Approval of an application

13.15 The Manager will make a confirmation under section 13.14 if:

- (a) the application is complete, including any required document(s), and meets the requirements of this Law; or
- (b) the application is in a form approved by Council.

13.16 Upon examination of the application, the Manager will either:

- (a) reject the application and inform the applicant in writing of the reasons for the rejection and the steps or information or revisions required to remedy the defects; or
- (b) approve the application as to form by signing and dating the appropriate section of the Form and forward the application to the Kwiakah First Nation Land Register in a timely manner for registration or recording.

Compliance with this Law

13.17 Confirmation by the Manager under section 13.14 is deemed to be proof that the document to be registered meets the conditions for registration set out in this Law.

Submission for Registration

13.18 The Manager will not submit an Instrument or document for registration in the Kwiakah First Nation Land Registry if:

- (a) there is evidence of potential fraud, coercion or violation of an applicable law in relation to the proposed Interest and registration;
- (b) Council requires time for an investigation into the potential fraud, coercion or violation of an applicable law in relation to the proposed Interest and registration; or
- (c) there is a valid court order applicable to the Interest that prevents the registration.

Post-Registration Procedures

13.19 After the Manager has forwarded an application to the Kwiakah First Nation Land Registry for registration or recording, and once a decision has been made with respect to registration or recording, the Manager will return any Instruments or documents in the Manager's possession, and provide a Parcel Abstract to the applicant, provided that the Manager has a valid mailing address for the applicant that is not a post office box.

No Liability for Loss or Damage

13.20 The Lands Department is not liable for loss of or damage to Instruments, documents, or other application material within its possession.

14. OFFENCES AND PENALTIES

Offences and penalties

14.1 A Person who contravenes this Law or a court order made pursuant to this Law is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term not more than two years less a day, or to both.

Fines remitted to Kwiakah

14.2 A fine payable under section 14.1 of the must be remitted to the Kwiakah by the court after reasonable court costs have been deducted.

14.3 Outstanding monetary penalties or fines are recoverable by the Kwiakah as a debt due to it.

14.4 Kwiakah may register a debt instrument in the Kwiakah First Nation Land Registry for any debt owing under section 14.3 against the applicable parcel of Kwiakah Lands.

15. REGULATIONS, FORMS AND FEES

15.1 In this Part, “Forms and Fees” means schedules of fines and fees, forms and other supporting documentation for use in the administration of this Law.

15.2 Council may, by Resolution, make any regulations it considers necessary or advisable to achieve the purposes of this Law.

15.3 For certainty, the powers of Council under section 15.1 include the power to:

(a) establish administrative fees for services provided under this Law;

(b) establish fees and rents for Interests and Licences; and (c)

establish royalties for the extraction of Natural Resources.

15.4 Council may prescribe Forms and Fees.

15.5 Council may, by resolution, establish, correct, revise or update the terms of any applicable Forms and Fees, and will post notice of same in a public area of the Kwiakah administration building and make a copy of same available for viewing free of charge at the administrative offices of Kwiakah and available for distribution at a nominal charge.

15.6 If Council creates or modifies any Forms and Fees under this Law, the Administrator must ensure that the register of laws maintained under section 12.1

of the Land Code, and any notice of those fees or forms made available via Kwiakah offices or website, are updated accordingly as soon as practicable.

Fees Payable to Kwiakah

- 15.7 Any fee for an application or approval under this Law will be paid to Kwiakah by cash, cheque or other method approved by Council.

Copy of Instrument

- 15.8 Subject to all applicable laws including privacy laws, upon a written request to the Lands Department and payment of any applicable fee, the Lands Department will provide a copy of an Instrument relating to Land registered or recorded in the Kwiakah First Nation Land Register.

16. DISPUTES

- 16.1 Any Person may refer a dispute or grievance concerning any matter under this law to the dispute resolution process in the *Dispute Resolution Law*.

17. DELIVERY

- 17.1 A copy of a notice made under this Law may be delivered in any of the following ways:
- (a) in Person;
 - (b) by mailing a copy of the notice to the actual or last known address of the addressee; or
 - (c) by leaving a copy of the notice with a Person who appears to be at least 16 years of age at the actual or last known address of the addressee.
- 17.2 A copy of a notice delivered under section 17.1(b) is presumed to have been received by the addressee on the fifth day after mailing.

18. AMENDMENT

- 18.1 Council may make non-substantive amendments to this Law in the same manner as that prescribed in section 34.1 of the Land Code.

19. COMING INTO FORCE

- 19.1 This Law comes into force on the day after it is approved by Council by Resolution, or such other date as is specified in the Resolution.