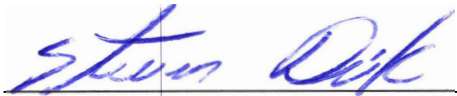


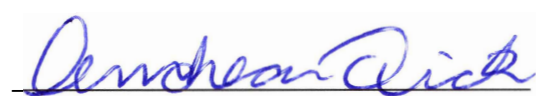


**KWIAKAH FIRST NATION
SUBDIVISION, DEVELOPMENT AND SERVICING LAW**

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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PREAMBLE

WHEREAS Kwiakah First Nation has the authority under section 9.1 of the *Kwiakah First Nation Land Code* to make laws respecting the development, conservation, protection, management, use and possession of Lands and any matter necessary or ancillary to the making of laws in relation to Lands;

NOW THEREFORE this *Kwiakah First Nation Subdivision, Development and Servicing Law* is hereby enacted at a duly convened Council meeting.

1. CITATION

- 1.1 This Law may be cited as the Subdivision, Development and Servicing Law.

2. PURPOSE

- 2.1 The purpose of this Law is to promote environmentally sustainable, healthy, safe, convenient, subdivision, development, and servicing of Land.

3. APPLICATION

- 3.1 This Law applies to Land as defined in the Land Code.

4. INTERPRETATION

Land Code Interpretive Principles Apply

- 4.1 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” or “must” 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

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

“BC Building Code” means the British Columbia Building Code established under the *Building Act*, SBC 2015, c 2;

“Contamination” means the presence of substances on Land that exceed the Numerical Standards contained in the *Contaminated Sites Regulation*, BC Reg 375/96, or in a Law;

“Development” means any activity on Land listed in section 7.1 of this Law;

“Development Permit” means a permit approving an application for a Development;

“Enforcement Officer” means the Manager, a delegate of the Manager, or any other person appointed by Council to exercise any or all of the powers of an Enforcement Officer under this Law;

“Kwiahkah” means Kwiahkah First Nation;

“Land” has the same meaning as “Land” and “Lands” in the Land Code, and includes Natural Resources; water located within the Land, and the bed underlying the water; and riparian rights per s. 6.2 of the Land Code;

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

“Numerical Standards” has the same meaning as in the *Contaminated Sites Regulation*, BC Reg 375/96, as amended from time to time;

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

“Polluting Substance” means a substance that, if added to a Waterbody, is likely to degrade or alter or form part of a process of degradation or alteration of the physical, chemical or biological conditions of the Waterbody to an extent that is detrimental to its use by plants, fish, animals and humans;

“Qualified Professional” means a Person who is qualified under the laws of British Columbia or certified by a professional association to provide professional advice in respect of a matter within that Person’s area of expertise, and includes a Registered Professional;

“Refuse” means discarded or abandoned, materials, substances or objects;

“Registered Professional” means a person who is registered or licenced to practice:

- (a) as an architect under the *Architects Act*, RSBC 1996, c 17; or

- (b) as a professional engineer under the *Engineers and Geoscientists Act*, RSBC 1996, c 116;

“Riparian Assessment Area” means

- (a) for a stream, the 30-metre strip on each side of the stream, measured from the Stream Boundary, and
- (b) if the stream is in a ravine less than 60 metres wide, a strip on each side of the stream measured from the Stream Boundary to a point that is 30 metres beyond the top of the ravine bank, and
- (c) if the stream is in a ravine 60 or more metres wide, a strip on each side of the stream measured from the Stream Boundary to a point that is 10 metres beyond the top of the ravine bank;

“Soil” means topsoil, silt, clay, sand, gravel, rock, peat, compost, or other substance of which natural land is composed and includes materials added to or existing in combination with any of these;

“Stream Boundary”, in relation to a stream, means whichever of the following is farther from the centre of the stream:

- (a) the visible high water mark of a stream where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the stream a character distinct from its banks, in vegetation, as well as in the nature of the soil itself;
- (b) the boundary of the active floodplain, if any, of the stream;

“Subdivide” or **“Subdivision”** means

- (a) the division of a parcel into two or more parcels, whether by survey plan, metes and bounds description or otherwise;
- (b) the consolidation of any number of parcels into a small number of parcels, whether by survey plan, metes and bounds description, or otherwise; and
- (c) the stratification or other division of legal interests in lands or structures into strata units or shares;

“Universal Product Code” means a 12-digit barcode that is assigned to a consumer product for identifying it and its manufacturer;

“Waterbody” includes

- (a) a lake, pond, stream, canal, lagoon, swamp marsh, wetland, river and its tributaries, an ocean, or other natural body of water up to the high water mark;

- (b) a canal, ditch reservoir or other man-made surface feature whether it contains or conveys water continuously or intermittently;

but does not include a sewage or waste treatment lagoon or a mine tailings pond.

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, permit or other document given or authorized under this Law; or
- (b) a failure of Kwiakah, a Kwiakah 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 is invalid must not affect the validity of the remaining portions of this Law.

6. SUBDIVISION APPROVAL

6.1 No person shall subdivide Land except in accordance with a Kwiakah Land Law or regulation.

6.2 Only Kwiakah may subdivide Community Lands.

6.3 For certainty,

- (a) a Subdivision that does not include an activity in section 7.1 does not require a Development Permit;
- (b) approval of a Subdivision under a Land Law or regulation does not authorize any activity in section 7.1; and
- (c) a Person may apply for Council approval to subdivide Land in which the Person has an Interest.

6.4 For greater certainty, as only Council may Subdivide Community Lands, approval of a subdivision is at the complete discretion of Council.

6.5 No Person may file a Notice of Dispute under the *Dispute Resolution Law* in relation to a Council decision to approve or not approve an application for subdivision under this Law.

7. DEVELOPMENT PERMIT

- 7.1 Unless an exemption in section 7.2 applies, no Person will carry out any of the following activities on Land except in strict compliance with a Development Permit, the requirements of this Law and any other applicable law:
- (a) the construction of roads, intersections, rip-rapping, erosion control, dyking, sewer, water and other infrastructure or connection to any existing roads or infrastructure
 - (b) the construction, alteration, installation, enlargement, repair, removal, demolition or renovation of a building or other structure, including signs larger than 4m², trailers, swimming pools, fences and decks;
 - (c) the clearing, grading, drilling, blasting, excavating or other alteration of Land;
 - (d) the deposit, excavation or storage of more than 12m³ of Soil;
 - (e) any construction or land-altering activity which takes place in or within 30 metres of a Waterbody or fish habitat.
 - (f) the deposit, storage or disposal of Refuse; and
 - (g) the extraction of Natural Resources.

Exemptions

- 7.2 Subject to the terms of any Lease, Licence, tenancy or occupation agreement between a Person and Kwiakah or a Kwiakah housing authority, the following activities do not require a Development Permit if the conditions in section 7.6 are met:
- (a) the construction, alteration, repair, removal, demolition or renovation of:
 - (i) a one-story non-residential building or structure having a footprint of less than 10m² upon completion;
 - (ii) an unenclosed, non-roofed sundeck or patio deck less than 0.6 metres above grade with a footprint that does not exceed 6m²; or
 - (iii) a primary trail, driveway or internal road for a single-family residential site where the trail, driveway or internal road is completely within a single parcel of land;
 - (b) non-structural alterations or repairs to a building;
 - (c) landscaping and minor yard work that does not require an excavation deeper than 0.45 metres, and where any deposit or removal of Soil complies with the applicable conditions in paragraphs (d) and (e);

- (d) the deposit of up to 12m³ of Soil where the Soil is
 - (i) in sealed bags with a commercial Universal Product Code and product label and purchased from a commercial store or distributor; or
 - (ii) excavated from and relocated within the same parcel;
- (e) the excavation of up to 12m³ of Soil where the Soil is being relocated and deposited within the same parcel;
- (f) the removal of any tree up to 15cm in diameter, measured at a height of 1.4 metres;
- (g) without affecting section 24.6 of the Land Code, if the removal does not result in the clearing of more than 10 percent of the trees on a parcel, the removal of
 - (i) up to seven trees between 15 and 50 cm in diameter, measured at a height of 1.4 metres; or
 - (ii) up to four trees over 50 cm in diameter, measured at a height of 1.4 metres;
- (h) the installation of a storage trailer or temporary structure if the trailer or structure
 - (i) is not used as a permanent residence and has no hook-up or a connection to services;
 - (ii) is installed on any parcel of Land for no more than three months in a calendar year; and
 - (iii) is not placed or stacked on top of another storage trailer or temporary structure;

7.3 For clarity, nothing in sections 7.1 or 7.2 relieves a person granted an exemption under this Law of the obligation to comply with any other applicable law.

Exemption Review Meeting

- 7.4 A Person seeking an exemption under section 7.2 must, before carrying out any activity, arrange a meeting with the Manager to review details of the proposed Development and provide to the Manager in advance of that meeting:
- (a) a parcel abstract report showing proof that the person has a valid Interest or Licence in the applicable parcel of Land;
 - (b) if applicable, written consent from every holder of the Interest or Licence;
 - (c) evidence satisfactory to the Manager that the proposed Development qualifies for an exemption under section 7.2 and satisfies the conditions of exemption in section 7.6.

7.5 Within 30 days after the exemption review meeting occurs, the Manager will, after reviewing the application materials and considering the conditions in section 7.6:

- (a) approve the exemption request; or
- (b) reject the exemption request.

Conditions of Exemption

7.6 An exemption under section 7.2 applies only where:

- (a) the activity qualifies for an exemption in section 7.2;
- (b) the parcel abstract report shows that the applicable parcel of Land is subject to a valid Interest or Licence in favour of the person seeking the exemption;
- (c) every holder of the Interest or Licence has provided written consent to the activity;
- (d) the instrument granting the Interest or Licence in the Land parcel does not prohibit the proposed activity;
- (e) the proposed activity complies with the BC Building Code, where applicable;
- (f) the activity will not take place in a Riparian Assessment Area; and
- (g) the activity is not likely to result in the introduction of Contamination or the release of a Polluting Substance.

7.7 For the purposes of section 7.6, Kwiakah is deemed to have an Interest or Licence in Community Lands.

Exemptions on Community Land

7.8 The Manager may only grant an exemption for Development on Community Lands to Kwiakah, its agent or contractor, or the holder of an Interest or Licence in such Community Lands.

Phasing Non-exempt Developments

7.9 The Manager may deny an exemption under this section where, in the Manager's opinion, the Person is phasing a non-exempt Development to avoid triggering the requirement for a Development Permit.

Notice of Exemption Decision

7.10 The Manager will provide written reasons for an exemption decision to a Person seeking an exemption.

8. EMERGENCY EXCEPTION TO REQUIREMENT FOR DEVELOPMENT PERMIT

Emergency Defined

- 8.1 In this section, “Emergency” means a present or imminent event or circumstance that:
- (a) is caused by accident, fire, explosion, technical failure or a force of nature; and
 - (b) requires prompt coordination of action or special regulation of Persons or property to protect the health, safety or well-being of a Person or community or to limit the damage to property, significant Kwiakah cultural sites or the environment.

Council Resolution

- 8.2 Despite section 7.1, Council may, by Council Resolution, approve dyking, erosion control, flood protection, tree removal, or any other activity for which a Development Permit is required under this Law if any of the following apply:
- (a) a state of emergency or local state of emergency has been declared on Lands in accordance with the *Emergency Program Act*, RSBC 1996, c 11;
 - (b) a public welfare emergency has been declared on Lands in accordance with the *Emergencies Act*, RSC 1985, c 22 (4th Supp.); or
 - (c) Council sets out in the Council Resolution that the activity is urgently and immediately necessary to respond to an Emergency.
- 8.3 Upon approving an activity under section 8.2, Council will immediately provide a copy of the Council Resolution to the Manager.

Emergency Response by Delegate

- 8.4 Where:
- (a) Council has delegated Emergency response duties to any Kwiakah official or agency; and
 - (b) section 8.2(a) or 8.2(b) applies, or the delegate reasonably believes that an activity for which a Development Permit is required is urgently and immediately necessary to respond to an Emergency,

the delegate may carry out the activity without a Development Permit, provided that:

- (c) the delegate will
 - (i) immediately notify the Manager; and
 - (ii) where practicable, consult with other Kwiakah officials and staff to determine an appropriate response to the Emergency; and

- (d) the delegate's authority under this section will expire after 96 hours unless the terms of the delegation provide otherwise.

8.5 A Person performing Emergency response duties pursuant to a Council Resolution under section 8.2 will first make any necessary contact with BC One Call or other service that replaces BC One Call with respect to the location of underground lines.

9. PRE-APPLICATION MEETING

Pre-application Meeting and Review

9.1 A Person who wishes to carry out a Development on Land must, before submitting an application under section 10.1:

- (a) arrange a meeting with the Manager to review details of the proposed Development;
- (b) provide a description and site sketch of the proposed Development; and (c) provide any other information requested by the Manager.

9.2 The Manager will determine, in consultation with the other Kwiakah departments as required:

- (a) whether the proposed Development:
 - (i) requires a Development Permit or is exempt from the Development Permit requirement;
 - (ii) requires written consent from any holder of a Licence or Interest in the applicable parcel of Land;
 - (iii) is subject to a Kwiakah Law respecting development cost charges;
 - (iv) is subject to any Kwiakah Law, regulation or policy respecting land dedication, community amenities or contributions to infrastructure costs not required under a law respecting development cost charges;
 - (v) is subject to any other Kwiakah Law, regulation, policy, land use plan or environmental management plan; and
- (b) whether the Person in section 9.1 is in arrears on any property taxes owed to Kwiakah.

9.3 Once the Manager makes the determinations under section 9.2, the Manager will provide written notice to a Person in section 9.1 of: (a) any requirement for a Development Permit;

- (b) any requirement for written consent from the holder of a Licence or Interest in the applicable parcel of Land;
 - (c) any requirement of a Kwiakah regulation or policy that must be satisfied at the time of application or at another time during the review and approval process for an application;
 - (d) any requirement to pay development cost charges;
 - (e) any requirements to provide community amenities or pay contributions to infrastructure development costs not required under a law respecting development cost charges;
 - (f) the Person's obligation to comply with any applicable law, regulation, policy, land use plan or environmental management plan;
 - (g) any unpaid property taxes owing to Kwiakah; and
 - (h) any other information required for a complete application.
- 9.4 Where a proposed Development relates to Community Lands, the written consent required by section 10.4 must be given by Council Resolution, where the Person in section 9.1 is Kwiakah or its agent or contractor.
- 9.5 If the Manager determines under section 9.3(a) that a proposed Development qualifies for an exemption under section 7.2, the Manager may grant an exemption in accordance with that section if the Manager is satisfied that the conditions in section 7.6 are met.

10. APPLICATION FOR DEVELOPMENT PERMIT

Application Form and Fees

- 10.1 A Person seeking a Development Permit must submit a completed application to the Manager and pay any applicable fees.

No Eligibility Where Debts Outstanding

- 10.2 A Person who is in arrears on property taxes with respect to real property on Land is not eligible to apply for a Development Permit.

Fee Waiver

- 10.3 The Manager will waive any applicable fee:
- (a) in accordance with policy or regulation; and
 - (b) in respect of an application by a Member for a non-commercial Development.

Application Contents

- 10.4 An application under section 10.1 must include:

- (a) a completed application form;
- (b) proof of a valid Interest or Licence in the applicable parcel of Land, or a concurrent application for such Licence or Interest;
- (c) written consent from any holder of an Interest or Licence in the applicable parcel of Land;
- (d) if the applicant is a corporation, proof that the corporation is in good standing under the rules of the applicable corporate registry and is eligible to do business in British Columbia;
- (e) supporting documents, information and approvals showing compliance or plans for compliance with applicable requirements in:
 - (i) any directions from a Registered Professional; and
 - (ii) any Kwakwaka'wakw law, policy, regulation, land use plan or environmental management plan.

Manager Review of Application for Completeness

10.5 Within 30 days of receiving an application and any applicable fee, the Manager will

- (a) review the application for completeness; and
- (b) if the application is complete, provide a written receipt to the applicant.

Incomplete Application

10.6 If the application is incomplete, no application fee will be charged and the Manager will:

- (a) immediately return the application to the applicant; and
- (b) notify the applicant in writing of any deficiencies in the application that must be corrected before it can be accepted and processed.

Concurrent Applications

10.7 An applicant may apply concurrently for a Development Permit and

- (a) an Interest or Licence;
- (b) a rezoning or land use plan amendment under any applicable Law; and
- (c) a Subdivision.

- 10.8 The Manager will review and process applications in stages, generally in the following order:
- (a) Interest or Licence;
 - (b) zoning variance or rezoning and land use plan amendment under an applicable Law;
 - (c) Subdivision;
 - (d) Provisional approval of conceptual plans; and
 - (e) Development Permit.
- 10.9 For certainty, Council will not make a decision on the Development Permit application until a decision has been made on any concurrent applications listed in section 10.7.

Costs

- 10.10 Unless exempted under this Law or a regulation, a Person applying for a Development Permit is responsible for all costs associated with:
- (a) completing and submitting the application;
 - (b) complying with the terms of the Development Permit, this Law, and any other applicable law, regulation, plan or policy;
 - (c) servicing agreements; and
 - (d) conducting studies, retaining professionals, and any other cost associated with Kwiakah review of the information and studies provided by the applicant.

11. MANAGER REVIEW AND CONSULTATION

Referral and Consultation

- 11.1 Once the Manager determines that an application is complete under section 10.5, the Manager will:
- (a) refer aspects of the application to other Kwiakah departments, outside agencies as appropriate, and neighbouring Regional Districts or municipalities, as applicable; and
 - (b) consult with Members and other interested parties where required by regulation or policy, where the Manager determines that consultation is necessary, or where directed by Council.

Decision Package

- 11.2 After completing the tasks in section 11.1, the Manager will prepare a decision package for Council describing:

- (a) the results of any referrals and consultation under section 11.1;
 - (b) the Manager's assessment of the application review factors in section 13.1;
 - (c) the Manager's recommendations respecting potential terms and conditions of a Development Permit; and
 - (d) a draft Development Permit.
- 11.3 The Manager must include in the decision package copies of the application materials submitted under section 10.4.

Council Review

- 11.4 Upon receiving a decision package from the Manager under section 11.2, Council will consider
- (a) the contents of the decision package and draft Development Permit;
 - (b) the factors in section 13.1; and
 - (c) the potential terms and conditions of a Development Permit in section 14.1.

Council Decision or Referral Back to Manager

- 11.5 After completing the tasks in section 11.4, Council may, by Council Resolution,
- (a) approve the application;
 - (b) approve the application subject to terms and conditions;
 - (c) reject the application; or
 - (d) refer an application back to the Manager:
 - (i) for more information, if it determines that it does not have enough information to make a decision;
 - (ii) for more Member consultation, if it determines that such consultation is necessary in the circumstances; or
 - (iii) for more engagement with other Kwiakah departments, outside agencies, or neighbouring Regional Districts or municipalities, as applicable, if it determines that such engagement is necessary in the circumstances.

Form of Development Permit

- 11.6 If Council approves the application, with or without terms and conditions, it will direct the Manager to issue a Development Permit.

When Written Reasons Required

- 11.7 Council will provide written reasons for a decision under section 11.5(a), 11.5(b) or 11.5(c):

- (a) to the Manager; and
- (b) to the applicant.

12. FINAL APPROVAL OF APPLICATIONS

- 12.1 A decision to approve an application is not binding until a Development Permit is issued.

13. APPLICATION REVIEW FACTORS

- 13.1 The Manager or Council will consider the following factors in considering an application for a Development Permit:

- (a) the interest of Kwiakah and its Members in the well-planned and orderly development of Lands;
- (b) the health, safety, convenience and welfare of Members and of Interest-holders, residents, and lawful occupants of Lands;
- (c) the provision of community benefits and the development of community amenities;
- (d) the provision of adequate parking, access and emergency access;
- (e) the nature of the proposed activity or Development in relation to the character of the zone, neighbourhood and existing buildings in the area;
- (f) viewscales, aesthetics and visual qualities;
- (g) potential effects on adjacent Interest holders, users and occupants;
- (h) conservation of property values;
- (i) compliance with applicable land use plans, zoning Laws, and other Laws and regulations of Kwiakah;
- (j) compliance with any applicable federal or provincial enactment;
- (k) consistency with any Kwiakah housing policies;

- (l) protection and enhancement of cultural and heritage resources and sites;
- (m) environmental protection and enhancement;
- (n) drainage, storm water management and flood plain measures;
- (o) promotion of economic development;
- (p) any information provided and any existing Development Permit granted under this Law in relation to the same project or the same parcel of Land; and
- (q) any other factors which may have an effect on the community or Lands.

14. EXAMPLE TERMS AND CONDITIONS

14.1 The following terms and conditions are examples of terms and conditions that may be placed on a Development Permit:

- (a) the posting of a bond, irrevocable letter of credit or other form of financial security, and the necessary percentage or amount;
- (b) maintaining insurance with coverage and other terms considered adequate by Council;
- (c) dedication of up to 5% of the area of project area for greenspace, parks or community use or cash donation in lieu;
- (d) construction, alteration, repair, removal or demolition of
 - (i) intersections, access and emergency access routes;
 - (ii) parking spaces, including electric charging stations;
 - (iii) sidewalks, paths or trails;
- (e) purchase and installation of street lights;
- (f) installation of storm water management and drainage works;
- (g) completion of servicing agreements with neighbouring regional districts or municipalities, as applicable;
- (h) provision of updated plans, reports or studies, including as-built drawings after the completion of the Development;
- (i) requirements for staging or sequencing of the Development, including requirements for interim reports;

- (j) setbacks or buffers including setbacks or buffers from property lines and environmental features;
- (k) mitigation measures incorporating floodplain requirements, erosion control, sediment control, habitat offsetting, or remediation of any existing Contamination on the applicable site;
- (l) requirements for a certain percentage of energy used in building and operating the Development to be powered by renewable energy sources;
- (m) noise and dust prevention; and
- (n) any other relevant terms or conditions.

15. AMENDMENT OR EXTENSION TO DEVELOPMENT PERMIT

- 15.1 The Manager may, at the request of the Development Permit holder and upon payment of the applicable fee, if any:
- (a) amend a Development Permit if the amendment does not authorize a substantive change to the Development or the terms of the Development Permit;
 - (b) extend the term of a Development Permit for up to two years to accommodate a delayed construction schedule or other reasonable circumstances if the activity authorized by the Development Permit will not change in any way.
- 15.2 For clarity, a change in the method of carrying out an activity constitutes a change in the activity under section 15.1(b) if the new method may result in new or additional impacts to the environment or the Kwiakah community.
- 15.3 A Person seeking an amendment or extension to a Development Permit, other than an amendment or extension described in section 15.1, must submit a new application in accordance with section 10.4.

16. ENFORCEMENT OFFICERS

- 16.1 In this section,
- (a) “Dwelling” means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence, and includes
 - (i) a building within the curtilage of a Dwelling that is connected to it by a doorway or by a covered and enclosed passageway; and
 - (ii) a unit that is designed to be mobile and to be used as a permanent or temporary residence and that is being used as such a residence; and
 - (b) “Place” means
 - (i) Lands;

- (ii) a Dwelling;
 - (iii) a building or structure or any part of a building or structure other than a Dwelling; and
 - (iv) a vehicle, vessel or trailer.
- (c) "Vehicle" means any motorized device used to transport or move things or people from place to place.

Appointment and Cross-Appointment

- 16.2 Council will, by Council Resolution, appoint such Enforcement Officers as are necessary to administer and enforce this Law, and may limit the powers under this section that an Enforcement Officer may exercise.
- 16.3 Council may enter into agreements with other governments:
- (a) to enable Enforcement Officers appointed under this Law to enforce designated laws of the other government; or
 - (b) to enable Council to designate any Person or class of Persons employed by the other government as an Enforcement Officer for the purposes of this Law.

Powers of Entry and Inspection

- 16.4 To ensure compliance with this Law or an order, Permit or other instrument issued under this Law, an Enforcement Officer may, subject to section 16.5, enter and inspect a Place at any reasonable time where the Enforcement Officer believes on reasonable grounds that a person may be committing an offence under this Law.
- 16.5 Despite section 16.4, no Enforcement Officer may enter a Dwelling except with the consent of the occupant or person in charge of the Dwelling or under the authority of a warrant.
- 16.6 An Enforcement Officer may, when carrying out an inspection under section 16.4:
- (a) be accompanied or assisted by a Person who special, expert or professional knowledge of a matter relevant to the inspection;
 - (b) inspect, analyze, measure, sample or test Lands, and any thing or substance located on or in Lands;
 - (c) take away samples of Lands, things or substances, free of charge;
 - (d) if authorized by the warrant, require a Person to produce relevant records or things in the Person's possession or control;

- (e) examine and take away copies of records related to any matter regulated under this Law;
- (f) take photographs or make audio records;
- (g) require that a Place or thing not be altered or disturbed for a reasonable period of time; and
- (h) question a Person the Enforcement Officer reasonably believes to have information respecting a matter relevant to the inspection.

16.7 For the purposes of carrying out an inspection, an Enforcement Officer may stop a Vehicle or direct that it be moved to a place where the inspection can be carried out.

Warrants

16.8 On an Enforcement Officer's application made without notice, a justice of the peace may issue a warrant authorizing an Enforcement Officer to enter and search a Place and examine anything relevant to determining compliance with this Law, if the justice of the peace is satisfied that the Enforcement Officer has been properly appointed and has reasonable grounds to believe that something relevant to the investigation is at the Place.

16.9 A warrant issued under section 16.8 does not authorize entry or search after sunset or before sunrise unless expressly stated in the warrant.

16.10 An Enforcement Officer entering and searching a Place under the authority of a warrant issued under section 16.8 may

- (a) be assisted by a peace officer;
- (b) enter a Place by force; and
- (c) exercise any of the powers in section 16.6.

17. OFFENCES

17.1 A Person is guilty of an offence who:

- (a) carries out a Development without a Development Permit, unless the Development is exempt under section 7.2;
- (b) fails to comply with the terms of a Development Permit;
- (c) fails to comply with an order issued under section 19.1 or the order of a court in relation to a matter under this Law;
- (d) knowingly provides false or misleading information to Kwiakah in respect of any matter related to this Law; or

- (e) obstructs an Enforcement Officer in the performance of their duties under this Law.

Continuing Offences

- 17.2 An offence that is committed or continued on more than one day is a separate offence for each day on which the offence is committed or continues.

18. PENALTIES

- 18.1 A Person convicted of an offence under section 17.1 is liable on summary conviction to:
- (a) in the case of an individual, a fine of not more than \$5,000 for each day or part of a day on which the offence is committed or continued, imprisonment for a term of not more than six (6) months, or both; and
 - (b) in the case of a corporation, a fine of not more than \$100,000 for each day or part of a day on which the offence is committed or continued.
- 18.2 Despite section 18.1, and where authorized by a Kwiakah law, proceedings against a Person who has committed an offence in section 17.1 may be commenced by an information in the form of a ticket.

Fines Remitted to Kwiakah

- 18.3 A fine payable under section 18.1 must be remitted to Kwiakah by the court after reasonable court costs have been deducted.

19. COMPLIANCE ORDERS

- 19.1 An Enforcement Officer may issue a written compliance order where the Enforcement Officer believes on reasonable grounds that a Development is not in compliance with this Law or the terms of a Development Permit.

Who may be named in a Compliance Order

- 19.2 An Enforcement Officer may issue a compliance order to any Person who:
- (a) holds an Interest or Licence in the applicable parcel of Land;
 - (b) holds a Development Permit for the applicable parcel of Land; or
 - (c) has ownership, management or control of the Development.

Content of Compliance Order

- 19.3 A compliance order may require any Person named in the order to, within the time period specified in the order:

- (a) stop any activity associated with the Development;
- (b) comply with the terms of this Law and any applicable Development Permit;
- (c) remove any unauthorized buildings, structures or works associated with the Development;
- (d) prevent or remediate any Contamination, release of a Polluting Substance or damage to buildings, structures or works arising from unauthorized Development or non-compliance with the terms of a Development Permit;
- (e) retain a Qualified Professional at the Person's own expense to prepare any required assessment, work plan or final report related to compliance with the order;
- (f) provide financial security to Kwiakah for the performance of any action required by the order; and
- (g) provide proof of compliance with the order to the Manager.

Kwiakah May Undertake Work

- 19.4 The Manager may do or cause to be done any activity required by a compliance order if a Person named in the order fails to comply within the time period set out in the order.

Liability for Costs Incurred by Kwiakah

- 19.5 Every Person named in an order under this section 19 is jointly and severally liable for any costs incurred by Kwiakah in carrying out work under section 19.4, including any related expenses and any administrative and professional fees and costs.

20. ORDER TO PAY COSTS; RECOVERY OF COSTS FROM FINANCIAL SECURITY

- 20.1 Where the Manager exercises authority under section 19.4, the Manager may issue a written order to pay the costs incurred by Kwiakah.
- 20.2 An order under this section may name any Person who is liable to pay costs under section 19.5

Content of Order

- 20.3 An order to pay costs under section 20.1 will include:
- (a) a description of the activities carried out under section 19.4;
 - (b) a detailed account of the costs incurred by Kwiakah in carrying out the activities; and
 - (c) an order to pay such costs to Kwiakah.

Recovery of Costs from Financial Security

- 20.4 Where an order to pay costs is directed to a Person who has provided financial security, Kwiakah may draw on the financial security up to the amount set out in the order.

21. SUSPENSION OR REVOCATION OF DEVELOPMENT PERMIT

- 21.1 The Manager may, with reasonable cause and written notice to the holder of a Development Permit,
- (a) suspend the Development Permit until the corrective measures specified by the Manager are implemented; or
 - (b) revoke the Development Permit.

Restriction from Future Development Permits

- 21.2 Upon revoking a Development Permit under section 21.1(b), the Manager may restrict a Person from holding a Development Permit for up to three years for reasonable cause.
- 21.3 Without limiting the meaning of reasonable cause in sections 21.1 or 21.2, the following may serve as grounds to suspend or revoke a Development Permit or restrict a Person's eligibility to hold a Development Permit:
- (a) the Person is convicted of any offence under the applicable enactment in relation to
 - (i) an activity authorized under a Development Permit;
 - (ii) the Land identified in the Development Permit; or
 - (b) the Person failed to comply with an order under section 19.

22. ENFORCEMENT OF COMPLIANCE ORDERS

Registration in Court

- 22.1 A compliance order issued under section 19.1 may be registered in court and enforced as a court order, and will continue in force until the non-compliance that led to the order is remedied or the activity that is the subject of the compliance order is authorized by a Development Permit issued under this Law.

Statutory Injunction

- 22.2 Kwiakah may, by a proceeding brought in a court having jurisdiction, enforce, prevent or restrain the contravention of this Law or an order made under sections 19 and 20.

- 22.3 The authority under section 22.2 is in addition to any other remedy or penalty provided under this Law, and may be exercised regardless of whether any Person has been charged with or convicted of an offence.

23. RECOVERY OF FINES AND COSTS

- 23.1 The following are recoverable by Kwiakah as a debt due to it:

- (a) fines payable under section 18; and (b)
- costs incurred by Kwiakah under section 19.4.

- 23.2 Kwiakah may recover a debt in this section by:

- (a) registering a debt instrument in the Kwiakah First Nation Land Register against the applicable parcel of Kwiakah Land; and
- (b) using any enforcement measures provided for in a Kwiakah property taxation law; and
- (c) using any other enforcement mechanisms permitted under provincial law.

24. DISPUTES

- 24.1 Subject to section 6.4, any Person may refer a dispute concerning any matter under this Law to the dispute resolution process in the *Dispute Resolution Law*.

25. LIABILITY

Development Permit

- 25.1 The issuance of a Development Permit does not

- (a) constitute evidence that the applicable activity is valid or legal; or
- (b) create any liability on behalf of Kwiakah.

- 25.2 The refusal to issue a Development Permit creates no liability on behalf of Kwiakah.

Joint and Several Liability for Damage to Lands

- 25.3 The following parties are jointly and severally liable for any structural damage, for creating a potential hazard or environmental risk, or for introducing Contamination or releasing a Polluting Substance in connection with a Development Permit or a matter regulated under this Law:

- (a) the holder of the Development Permit;
- (b) the holder of the Interest or Licence in the applicable parcel of Land; and

- (c) any other Person who causes or contributes to the structural damage, potential hazard, environmental risk, introduction of Contamination or release of a Polluting Substance.

25.4 No Person, including without limitation, Council, members of Council, employees of Kwiakah, a volunteer and any other Person appointed, authorized or required to carry out measures relating to an Emergency or disaster pursuant to section 8.2, is liable for any loss, cost, expense, damage or injury to persons or property that results from the Person in good faith doing or omitting to do anything that the person is appointed, authorized or required to do under this Law, unless, in doing or omitting to do the act, the Person is

- (a) guilty of dishonesty, gross negligence, malicious or wilful misconduct; or
- (b) acts in bad faith.

Liability for Trespass or damage arising from Enforcement Actions

25.5 For certainty, an Enforcement Officer is not liable for trespass for any entry on Lands in connection with the performance of a duty or exercise of a power under this Law, but may be liable for damage to Land resulting from such entry.

25.6 Section 25.5 applies to any Person assisting the Enforcement Officer or acting at the Enforcement Officer's instruction.

26. LIMITATIONS

26.1 All actions against Kwiakah for the unlawful doing of anything that:

- (a) is purported to have been done by Kwiakah under the powers conferred by this Law or any other Kwiakah Law; and
- (b) might have been lawfully done by Kwiakah if acting in the manner established by law,

must be commenced within sixty (60) days after the cause of action first arose, and Kwiakah is in no case liable for damages unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to Kwiakah, within thirty (30) days from the date on which the damage was sustained.

27. REGULATIONS, FORMS AND FEES

27.1 In this Part, "**Forms and Fees**" includes schedules of fines and fees, forms, and other supporting documentation for use in the administration of this Law.

Regulations

- 27.2 Council may, by Resolution, make or amend any regulations it considers necessary or advisable to achieve the purposes of this Law.
- 27.3 The powers of Council under section 27.2 include the power to prescribe:
- (a) administrative fees for services provided under this Law;
 - (b) procedures for the administration of this Law;
 - (c) timelines for review and decision-making on applications;
 - (d) requirements and procedures for consultation on applications for Development Permits and Subdivision approvals; and
 - (e) fees, rents or royalties for the use of Land or, subject to any Kwiakah Natural Resources Law, the extraction of Natural Resources.

Enactment Procedures for Regulations

- 27.4 A regulation made pursuant to section 27.2 is not subject to the law-making procedure in the Land Code.
- 27.5 A regulation made pursuant to section 27.2 may be drafted by the Manager at the request of Council, and may be approved and enacted by Resolution.
- 27.6 For certainty, a reference to this Law includes any requirements in a regulation to this Law.

Forms and Fees

- 27.7 Council may prescribe Forms and Fees.
- 27.8 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.
- 27.9 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

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

28. DELEGATION

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

29. DELIVERY

- 29.1 A copy of an order or notice made under this Law may be delivered in any of the following ways:

- (a) in person;
- (b) by email;
- (c) by mailing a copy of the order or notice by registered mail to the actual or last known address of the addressee;
- (d) by leaving a copy of the order or notice with a person who appears to be at least 16 years of age at the actual or last known address of the addressee;
- (e) by posting a copy of the order prominently on a door of a building at the actual or last known address of the addressee; or
- (f) where an order relates to an unauthorized Development on Community Lands, by posting a copy of the order prominently at the site of the Development.

- 29.2 A copy of an order or notice delivered under section 29.1(c) is presumed to have been received by the addressee on the fifth day after mailing.

30. AMENDMENT AND REPEAL

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

31. COMING INTO FORCE

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