

SHXWHÁ:Y VILLAGE LAND CODE

Dated for Reference March 16, 2006

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PREAMBLE

WHEREAS the peoples of Shxwhá:y Village, being Stó:lo, are represented by the Council of the Shxwhá:y Village;

AND WHEREAS the peoples of Shxwhá:y Village 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 Shxwhá:y Village 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 the Shxwhá:y Village endeavour 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 Shxwhá:y Village wishes to manage our lands and resources rather than having our lands and resources managed on our behalf by Canada under the *Indian Act*;

AND WHEREAS Shxwhá:y Village wishes to manage our lands and resources by entering into the Framework Agreement on First Nation Land Management entered into between Her Majesty in right of Canada and fourteen First Nations on February 12, 1996, as amended;

**NOW THEREFORE THIS LAND CODE IS HEREBY ENACTED AS THE
FUNDAMENTAL LAND LAW OF SHXWHÁ:Y VILLAGE.**

PART 1 PRELIMINARY MATTERS

1. Title

1.1 The title of this enactment is the *Shxwhá:y Village Land Code*.

2. Interpretation

Definitions

2.1 The following definitions apply in this Land Code:

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

“Adjudicator” means the Adjudicator appointed under section 37.3;

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

“Council” means the Chief Councillor and Council of Shxwhá:y Village;

“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 Nation Lands Register” means the register 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 Nation 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 Shxwhá:y Village and Her Majesty in right of Canada in accordance with clause 6.1 of the Framework Agreement;

“Instrument” means a formal legal document;

“Interest” means a legal interest in Shxwhá:y Village Land and includes a residential lot, leasehold, easement, permit, licence, charge and mortgage;

“Land Code” means this *Shxwhá:y Village Land Code*;

“Land Management Advisory Committee” means the Shxwhá:y Village Land Management Advisory Committee established under section 19.1;

“Lands Manager” means the Shxwhá:y Village employee responsible for the administration of Shxwhá:y Village Land;

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

“Meeting of Members” means a meeting under section 5.4, 26.4, 35.4 or 43.1;

“Member” means an individual whose name appears or is entitled to appear on the Shxwhá:y Village membership list;

“Ratification Vote” means a vote under section 13;

“Resolution” means a resolution of Council enacted under this Land Code;

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

“Shxwhá:y Village Band Land” means Shxwhá:y Village Land in which all Members have a common interest and which is not subject to any individual interest;

“Shxwhá:y Village Land” means a Shxwhá:y Village Indian reserve or any portion thereof that is subject to this Land Code;

“Shxwhá:y Village Lands Register” means the register maintained under section 22.1;

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

“Verifier” means 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 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 or 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 the feminine includes the masculine;
- (g) where the time limited for the 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 Shxwhá:y Village 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 the office is open; and
- (i) Where there is a reference to a number of days or 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 Shxwhá:y Village, 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 will be interpreted in accordance with the culture, traditions and customs of Shxwhá:y Village, unless otherwise provided.

Fair Interpretation

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

Language

- 2.7 The language of Shxwhá:y Village may be used to clarify the meaning of any provision of this Land Code, if the meaning of that provision is not clear in English.

Non-abrogation

- 2.8 This Land Code will not abrogate or derogate from any aboriginal right, treaty right or other right or freedom that pertains now or in the future to Shxwhá:y Village or its Members.
- 2.9 This Land Code is not intended to affect the eligibility of Shxwhá:y Village or any Member to receive services or participate in such public or aboriginal programs as may be established from time to time to the extent that Shxwhá:y Village has not assumed responsibility for such services or programs.

Fiduciary Relationships

- 2.10 This Land Code is not intended to abrogate the fiduciary relationships between Her Majesty the Queen in Right of Canada, Shxwhá:y Village and its Members.

Lands and Interests Included

- 2.11 A reference to “land” or “Land” in this Land Code is, unless the context otherwise requires, a reference to Shxwhá:y Village 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 Shxwhá:y Village; and
 - (b) all the Interests and licenses granted to Shxwhá:y Village 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 Shxwhá:y Village to govern its lands and resources flows from:
- (a) the Creator to the peoples of Shxwhá:y Village;
 - (b) from the peoples of Shxwhá:y Village to the Council according to the culture, traditions, customs and laws of Shxwhá:y Village; and

- (c) from Shxwhá:y Village'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 Shxwhá:y Village Land and by which Shxwhá:y Village will exercise authority over those lands in accordance with the Framework Agreement.

Ratification of Framework Agreement

- 4.2 The Framework Agreement is ratified by Shxwhá:y Village when Shxwhá:y Village approves this Land Code.

5. Description of Shxwhá:y Village Land

Shxwhá:y Village Land

- 5.1 The Shxwhá:y Village Land that is subject to this Land Code is that part of Skway Indian Reserve No. 5, being Reserve Lands within the Province of British Columbia, Canada in the New Westminster District, more particularly described as:

All of Skway Indian Reserve No. 5 as shown on Plan 90438 recorded in the Canada Lands Surveys Records (CLSR);

Excepting thereout and therefrom:

All that portion of Skway Indian Reserve No. 5 required for a right of way as shown on Plan 90842 CLSR.

Total lands, excluding mines and minerals, containing 253 hectares, (625 acres) more or less.

The above described Reserve Lands are subject to:

A permit in favour of The City of Chilliwack, registered in the Indian Lands Registry (ILR) as No. X15959, as shown on Plan 51624 Canada Lands Surveys Records (CLSR);

A permit in favour of The City of Chilliwack, registered in the ILR as No. 323954, as shown on Plan 86263 CLSR; and

The terms and conditions set out in Federal Order in Council 1930-208, registered in the

ILR as No. 15203, describing how Indian Reserves within the Railway Belt Lands were to be excluded from the transfer of the Railway Belt to the Province of British Columbia.

Additional Lands

- 5.2 The Shxwhá:y Village Land that is excluded from the application of this Land Code under section 5.1, being all that portion of Skway Indian Reserve No. 5 required for a right of way as shown on Plan 90842 CLSR, will be subject to this Land Code at such time as:
- (a) Shxwhá:y Village and the Minister of Indian Affairs and Northern Development agree that the exclusion is no longer justifiable; and
 - (b) the Individual Agreement has been amended in accordance with clause 4.6 of the Framework Agreement and section 7.3 of the Act,
- and section 5.1 of this Land Code will thereupon be deemed to be amended accordingly.
- 5.3 The following additional lands may be made subject to this Land Code if they are, or become, reserve lands and the applicable conditions are met:
- (a) lands owned jointly by Shxwhá:y Village and one or more other First Nations, if the First Nations agree upon a joint management scheme for those lands; and
 - (b) any land or Interest acquired by Shxwhá:y Village after this Land Code comes into effect, whether by land claim, purchase or other process, when an Environmental Site Assessment declares it free of environmental hazard and safe for Shxwhá:y Village use.
- 5.4 Section 5.3(b) does not apply to land acquired by voluntary land exchange in accordance with section 25.
- 5.5 If the applicable conditions of section 5.3 are met, Council will call a Meeting of Members and after receiving input at that meeting may enact a Law declaring 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 respecting:

- (a) development, conservation, protection, management, use and possession of Shxwhá:y Village Land;
- (b) Interests and licenses in relation to Shxwhá:y Village Land;
- (c) any matter necessary to give effect to this Land Code; and
- (d) any matter necessary or ancillary to a Law respecting Shxwhá:y Village Land.

Examples of Laws

6.2 For greater certainty, and without limiting the generality of section 6.1, Council may make Laws in relation to Shxwhá:y Village Land including:

- (a) zoning and land use planning;
- (b) subject to section 34, regulation, control, authorization and prohibition of residency, access, occupation and development of Shxwhá:y Village Land;
- (c) creation, regulation and prohibition of Interests and licenses;
- (d) environmental assessment and environmental protection;
- (e) provision of local services and the imposition of user charges;
- (f) provision of services for the resolution, outside the courts, of disputes;
- (g) authorization and regulation of subdivisions;
- (h) the conduct of surveys;
- (i) setting aside and regulation of parks, parklands, and recreational lands;
- (j) setting aside and regulation of heritage lands and sacred lands;
- (k) rules and procedures for the receipt, management, expenditure, investment, and borrowing of moneys, and the establishment of administrative structures to manage such moneys;
- (l) creation of management and administrative bodies or agencies;
- (m) removal and punishment of persons trespassing upon Shxwhá:y Village Land or frequenting Shxwhá:y Village Land for prohibited purposes;
- (n) public nuisance and private nuisance;

- (o) regulation of sanitary conditions and the provision of sanitary services in private premises and public places;
- (p) construction and maintenance of boundary and internal fences;
- (q) construction, maintenance and management of roads, water courses, water diversions, storm drains, bridges, ditches and other local and public works;
- (r) regulation of traffic and transportation; and
- (s) fishing sites on Shxwhá:y Village Land.

Administration

6.3 Council will perform all the duties and functions, and exercise all the powers, of Shxwhá:y Village that are not specifically assigned to an individual or body established under this Land Code.

Delegation

6.4 Notwithstanding section 6.3 Council may by enacting a Law, 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.

7. Law-Making Procedure

Approval of Law by Council

7.1 A Law is enacted if it is approved by Council.

Introduction of Laws

7.2 A proposed Law may be introduced at a meeting of Council by:

- (a) a member of Council;
- (b) a representative of the Land Management Advisory Committee, or other body composed of Members, that may be authorized by Council to do so; or
- (c) the Lands Manager.

Tabling and Posting of Proposed Laws

7.3 At least 30 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 Land Management Advisory Committee; and

- (c) posted in the Shxwhá:y Village administration offices and other public places on Shxwhá:y Village Land.

Urgent Matters

- 7.4 Council may enact a Law without the preliminary steps required under section 7.3 if Council is reasonably of the opinion that the Law is required urgently to protect Shxwhá:y Village Land or Members.
- 7.5 A Law enacted under section 7.4 will be deemed to have been repealed and to have no force and effect 28 days after its enactment, but may be re-enacted in whole or as amended, in accordance with section 7.3.

Certification of Laws

- 7.6 The original copy of a Law or Resolution relating to Shxwhá:y Village Land will be signed by the quorum of Council present at the meeting at which the Law or Resolution is enacted.

Law Coming Into Force

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

8. Publication of Laws

Publication

- 8.1 All Laws will be published in the minutes of Council.

Posting Laws

- 8.2 As soon as practicable after a Law has been enacted, Council will post a copy of the Law in the Shxwhá:y Village administration offices.

Register of Laws

- 8.3 Council will cause to be kept at the Shxwhá:y Village administration offices a register of Laws containing the original copy of all Laws and Resolutions, including Laws and Resolutions that have been repealed or are otherwise no longer in force.

- 8.4 Any person may, during regular business hours at the Shxwhá:y Village administration offices, have reasonable access to the register of Laws.

Copies for Any Person

- 8.5 Any person may obtain a copy of a Law or Resolution upon payment of such reasonable fee as may be set by Council or a body designated by Council.
- 8.6 Section 8.5 does not preclude Council or a body designated by Council from making a copy of a Law or Resolution available without fee.

PART 3 COMMUNITY CONSULTATION

9. Rights of Eligible Voters

Rights of Eligible Voters

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

10. Conduct of Meetings

- 10.1 Council will, in consultation with the Land Management Advisory Committee develop Laws, policies or procedures for the conduct of meetings under this Land Code.

11. Community Consultation

Consultation with Land Management Advisory Committee

- 11.1 Council will meet with the Land Management Advisory Committee to receive input prior to introducing and enacting a Law in respect of:
- (a) a land use plan or amendment of a land use plan;
 - (b) a subdivision plan;
 - (c) declaring land or an Interest in land referred to in section 5.3 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 Interests in Shxwhá:y Village Land;

- (h) a law in respect of spousal property under section 36; or
- (i) any other matter or class of matters that Council by Resolution declares to be subject to this section.

Process to Implement Laws

- 11.2 Council will, in consultation with the Land Management Advisory Committee and within a reasonable time after this Land Code takes effect, establish a process to develop and implement the Laws referred to in section 11.1.
- 11.3 Nothing in this Land Code precludes Council or the Land Management Advisory 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.

12. Meeting of Members

Purpose

- 12.1 Where prescribed by this Land Code, Council will consult with Members at a Meeting of Members.

Notice

- 12.2 Council 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.
- 12.3 Written notice of a Meeting of Members under section 12.2 will be given by:
 - (a) posting the notice in public places on Shxwhá:y Village Land at least 30 days before the meeting;
 - (b) mailing the notice to Members at least 30 days before the meeting; and
 - (c) such additional methods as Council may consider appropriate.
- 12.4 Nothing precludes Council from holding a Meeting of Members in conjunction with any other meeting of Shxwhá:y Village, including for greater certainty, an annual general meeting.

13. Ratification Votes

Approval by Ratification Vote

13.1 Approval by a Ratification Vote must be obtained for:

- (a) voluntary exchange of Shxwhá:y Village Land under section 25.2;
- (b) enactment of a law which establishes a permanent Interest in Shxwhá:y Village Land under section 43.4; and
- (c) enactment of a Law or class of Laws that Council, by Resolution, declares to be subject to this section.

Ratification Process

13.2 A Ratification Vote required under this Land Code will be conducted, with any modifications necessary in the circumstances, in substantially the same manner as that provided in the Shxwhá:y Village Community Ratification Process that was used to ratify this Land Code.

Minimum Requirements for Approval

13.3 A matter will be approved by a Ratification Vote if Shxwhá:y Village registers all eligible voters who signify, in a manner determined by Shxwhá:y Village, their intention to vote on the matter, and a majority of the registered voters vote to approve the matter.

No Verifier

13.4 A Verifier is not required in a Ratification Vote.

PART 4 LAND ADMINISTRATION

14. Financial Management

Application

14.1 This part applies only to financial matters in relation to Shxwhá:y Village Land administered under this Land Code.

Establishment of Bank Accounts

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

- (a) transfer payments received from Canada for the management and administration of Shxwhá:y Village Land;
 - (b) moneys received by Shxwhá:y Village from the grant or disposition of Interests or licenses in Shxwhá:y Village Land;
 - (c) fees, fines, charges and levies collected under a Law or Resolution in respect of Shxwhá:y Village Land;
 - (d) all capital and revenue moneys received from Canada from the grant or disposition of Interests and licenses in Shxwhá:y Village land; and
 - (e) any other land revenue received by Shxwhá:y Village from Shxwhá:y Village Land.
- 14.3 Council will continue or implement a system of financial planning and financial administration for the management of Shxwhá:y Village moneys through which Council, Shxwhá:y Village employees and other persons who manage moneys in relation to Shxwhá:y Village Lands are accountable to the Members within the meaning of clause 5.2(d) of the Framework Agreement.

Financial Policy

- 14.4 Shxwhá:y Village may, in accordance with this Land Code, adopt a financial policy to further manage moneys related to Shxwhá:y Village Land.

Signing Officers

- 14.5 A cheque or other bill of exchange or transfer drawn on a financial account maintained under section 14.2 must be signed by any two members of Council.
- 14.6 A payee will not be a signor under section 14.5.
- 14.7 Every signing officer will complete such security screening process as may be prescribed by Council.

Fiscal Year

- 14.8 The fiscal year of Shxwhá:y Village will begin on April 1 of each year and end on March 31 of the following year.

Adoption of Budget

- 14.9 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.

14.10 Prior to adopting a budget referred to in section 14.9, Council will consult with the Land Management Advisory Committee.

Procedure

14.11 After adopting a land management budget or supplementary budget, Council will as soon as practicable make a copy of the budget or supplementary budget available at the Shxwhá:y Village administration offices for inspection by Members during regular business hours.

If No Budget

14.12 If Council fails to adopt a land management budget for a fiscal year prior to the beginning of that fiscal year, the budget and any supplementary budget of the previous fiscal year will apply until another budget is adopted.

Expenditures

14.13 Council may not expend moneys related to Shxwhá:y Village Land or commit, by contract or otherwise, to expend moneys related to Shxwhá:y Village Land unless the expenditure is authorized under a Law or an adopted budget.

Determination of Revenues

14.14 Council will establish a process for determining:

- (a) fees and rent for Interests and licenses in Shxwhá:y Village Land; and
- (b) fees for services provided in relation to Shxwhá:y Village Land and compliance with this Land Code.

15. Financial Records

Financial Records

15.1 Shxwhá:y Village will keep financial records in accordance with generally accepted accounting principles.

Preparation of Financial Statement

15.2 Within 90 days after the end of each fiscal year Council will prepare a financial statement in comparative form containing:

- (a) a balance sheet;
- (b) a statement of revenues and expenditures and a comparison of these with the amounts 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 Shxwhá:y Village in relation to Shxwhá:y Village Land.

Consolidated Accounts

- 15.3 The accounting, auditing and reporting requirements of this Land Code may be consolidated with other accounts, audits and reports of Shxwhá:y Village.

16. Audit

Appointment of Auditor

- 16.1 For each fiscal year, Council will appoint a duly accredited auditor to audit the financial records under this Part.
- 16.2 An auditor appointed for other Shxwhá:y Village audits may be appointed under section 16.1.

Vacancy in Office

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

Remuneration

- 16.4 An appointment under section 16.1 or 16.3 will contain a statement approving the remuneration to be paid to the auditor.

Duty of Auditor

- 16.5 The auditor will, within 120 days after the end of the Shxwhá:y Village fiscal year, prepare and submit to Council an audit report on the Shxwhá:y Village financial statement stating whether, in the opinion of the auditor, the financial statement presents fairly and accurately the financial position of Shxwhá:y Village in accordance with generally accepted accounting principles applied on a basis consistent with that applied in the previous fiscal year.

Access to Records

- 16.6 The auditor may at all reasonable times inspect any financial records of Shxwhá:y Village and the financial records of any person or body who is authorized to administer money related to Shxwhá:y Village Land.

17. Annual Report

Publish Annual Report

- 17.1 Council will prepare and table with the Land Management Advisory Committee an annual report on Shxwhá:y Village Land management.
- 17.2 The annual report will include:
- (a) an annual review of Shxwhá:y Village land management activities;
 - (b) a copy and explanation of the audit report as it applies to Shxwhá:y Village Land; and
 - (c) such other matters as may be directed by Council or reasonably requested by the Land Management Advisory Committee.

18. Access to Information

Copies for Members

- 18.1 Any Member may, during regular business hours at the Shxwhá:y Village administration offices, have reasonable access to:
- (a) the audit report; and
 - (b) the annual report.
- 18.2 A Member may, during regular business hours at the Shxwhá:y Village administration offices, upon payment of a reasonable fee set by Resolution, obtain a copy of the auditor's report or annual report on Shxwhá:y Village Land management.
- 18.3 Section 18.2 does not preclude Council or a body designated by Council from making a copy of the auditor's report or annual report on Shxwhá:y Village Land management available without fee.

Offences

- 18.4 Any person who has control of the financial records of Shxwhá:y Village 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.

19. Land Management Advisory Committee

Committee Established

19.1 A Shxwhá:y Village Land Management Advisory Committee is hereby established.

19.2 The purpose of the Land Management Advisory Committee is to:

- (a) advise Council on development of a Shxwhá:y Village Land administration system;
- (b) advise Council and Shxwhá:y Village staff on matters respecting Shxwhá:y Village Land;
- (c) recommend to Council Laws, Resolutions, policies and procedures respecting Shxwhá:y Village Land;
- (d) subject to Part 8, hold Meetings of Members and other meetings to discuss issues related to Shxwhá:y Village Land and make recommendations to Council on the resolution of such issues;
- (e) assist in the exchange of information between Members and Council regarding Shxwhá:y Village Land matters;
- (f) oversee other consultations under this Land Code; and
- (g) perform such other duties and functions as Council may direct.

Development of Land Related Rules and Procedures

19.3 Within a reasonable time after this Land Code comes into effect, Council will, in consultation with the Members and the Land Management Advisory Committee, establish rules and procedures to address:

- (a) environmental protection and assessment;
- (b) resolution of disputes in relation to Shxwhá:y Village Land;
- (c) land use planning and zoning; and
- (d) section 36 respecting spousal property and the policy upon which that section is based.

Implementation of Policies

19.4 Recommendations of the Land Management Advisory Committee in relation to rules and procedures developed in accordance with section 19.3 will be given full and fair consideration by Council for implementation as Laws, policies or amendments to this Land Code.

Internal Procedures

19.5 The Land Management Advisory Committee may establish rules and procedures for the conduct of its meetings and general affairs, provided that any such rules and procedures are not inconsistent with any rules and procedures established by Council.

19.6 Subject to Council requirements in respect of financial obligations, the Land Management Advisory Committee may:

- (a) recommend policies for the remuneration and recovery of expenses incurred by Land Management Advisory Committee members; and
- (b) recommend programs for the orientation and education of Land Management Advisory Committee members.

19.7 The Land Management Advisory Committee will take reasonable measures to consult with Elders with respect to matters in general under this Land Code, and particularly with respect to heritage lands and sacred lands.

20. Land Management Advisory Committee Membership

Composition

20.1 The Land Management Advisory Committee will be comprised of seven Members appointed by Council.

Eligibility

20.2 Any Member, whether or not resident on Shxwhá:y Village Land, is eligible to be appointed to the Land Management Advisory Committee, except for:

- (a) an Eligible Voter convicted of an offence that was prosecuted by way of indictment or felony conviction within five years prior to the date of appointment; and
- (b) an Eligible Voter convicted of a corrupt practice in connection with an election, including accepting a bribe, dishonesty or wrongful conduct.

20.3 A member of the Immediate Family of a Member is eligible for appointment to the Land Management Advisory Committee, regardless of whether such member of an Immediate Family is a Member.

Selection of Land Management
Committee Members

20.4 The Land Management Advisory Committee will be composed of:

- (a) the Chief Councillor;
- (b) two Councillors;
- (c) one Elder;
- (d) one Youth;
- (e) one Member who is not a resident on Shxwhá:y Village Land; and
- (f) one Member who is normally a resident on Shxwhá:y Village Land.

20.5 The Lands Manager will be a member *ex officio* of the Land Management Advisory Committee.

20.6 Council will enact a Law to establish the procedure for selection of Land Management Advisory Committee members, including such transitional rules as may be necessary for the members of the first Land Management Advisory Committee.

20.7 A Law enacted under section 20.6 will include:

- (a) a process for providing notice to Members that appointments will be made to the Lands Management Advisory Committee and offering Members an opportunity to apply for such appointment; and
- (b) standards and criteria for appointment to the Lands Management Advisory Committee.

Term of Office and Vacancy

20.8 A member of the Lands Management Advisory Committee will serve in office until that member:

- (a) resigns in writing;
- (b) becomes ineligible to hold office under section 20.2;
- (c) where appointed under section 20.4(a) or (b) ceases to be a member of Council;

- (d) ceases to be a Member;
- (e) is absent from three consecutive meetings of the Lands Management Advisory Committee for a reason other than illness or incapacity without being authorized to be absent by the Lands Management Advisory Committee;
- (f) is removed by recommendation of the Land Management Advisory Committee approved by Resolution; or
- (g) dies or becomes mentally incompetent.

Filling of Vacancy

20.9 Where the office of a member of the Land Management Advisory Committee becomes vacant, the vacancy will be filled by appointment of Council in accordance with section 20.4.

21. Chair of the Land Management Advisory Committee

Chair

21.1 The member of the Land Management Advisory Committee appointed under section 20.4(a) will be the Chair of the Lands Management Advisory Committee.

Co-chair

21.2 The members of the Land Management Advisory 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

21.3 If the Chair and Co-chair are unavailable or unable to perform the functions of office, the Land Management Advisory Committee will appoint another member of the Land Management Advisory Committee to serve as interim Chair.

Duties of the Chair

21.4 The duties of the Chair are to:

- (a) chair meetings of the Land Management Advisory Committee;
- (b) ensure that financial statements relating to activities of the Land Management Advisory Committee, including any applicable revenues and expenditures in relation to Shxwhá:y Village Lands, are prepared and tabled with Council;

- (c) report to Council and the Members on the activities of the Land Management Advisory Committee;
- (d) monitor the presentation of the annual report under section 17.1; and
- (e) perform such other duties as Council or the Land Management Advisory Committee may reasonably prescribe.

22. Registration of Interests and Licenses

Shxwhá:y Lands Register

- 22.1 Council will maintain a Shxwhá:y Village Lands Register in, at a minimum, the same form and with the same contents as the First Nation Lands Register.
- 22.2 An Interest or license in Shxwhá:y Village Land created or granted after this Land Code comes into effect is not enforceable unless it is registered in the Shxwhá:y Village Lands Register.

Registration of Consent or Approval

- 22.3 No instrument that requires the consent of Council will be registered in the Shxwhá:y Village Lands Register unless the document that records the consent or approval, or a certified copy thereof, is attached to the instrument.

Duty to Deposit

- 22.4 Every person who receives a grant of an Interest or license in Shxwhá:y Village Land from a Member will deposit an original copy of the instrument granting that Interest or license in the Shxwhá:y Village Lands Register.
- 22.5 Council will ensure that a copy of the following instruments is deposited in the Shxwhá:y Village Lands Register:
 - (a) a grant of an Interest or license in Shxwhá:y Village Land;
 - (b) a transfer or assignment of an Interest or license in Shxwhá:y Village Land;
 - (c) a land use plan or subdivision plan; and
 - (d) this Land Code and any amendment to this Land Code.
- 22.6 Notwithstanding section 22.1, nothing precludes Council from enacting a Law providing for maintenance of the Shxwhá:y Village Lands Register in such other land registry system or facility as may meet the requirements of the Shxwhá:y Village Lands Register.

23. First Nation Lands Register

- 23.1 Council will ensure that a duplicate copy of any instrument deposited in the Shxwhá:y Village Lands Register is deposited in the First Nation Lands Register.

**PART 5
PROTECTION OF LAND**

24. Expropriation by Shxwhá:y Village

Rights and Interests That May Be Expropriated

- 24.1 An Interest or license in Shxwhá:y Village Land or in any building or other structure on Shxwhá:y Village land may be expropriated by Shxwhá:y Village in accordance with the Framework Agreement and a Law enacted in accordance with this Land Code.

Community Purposes

- 24.2 An expropriation may be made only for a necessary community purpose or works of Shxwhá:y Village, including 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

- 24.3 Council will enact a Law in respect of rights and procedures for expropriations, including provisions in respect of:
- (a) taking possession of an expropriated Interest or license;
 - (b) transfer of an expropriated Interest or license;
 - (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

- 24.4 Before Shxwhá:y Village expropriates an Interest or license, Council will:

- (a) prepare a report on the reasons for the expropriation;
- (b) post a copy of the report in the Shxwhá:y Village 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

24.5 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 by Shxwhá:y Village.

Acquisition by Mutual Agreement

24.6 Shxwhá:y Village may expropriate only after a good faith effort to acquire, by mutual agreement, the Interest or license in Shxwhá:y Village Land.

Compensation for Rights and Interests

24.7 Shxwhá:y Village will, in accordance with its Laws and the Framework Agreement:

- (a) serve reasonable notice of the expropriation on each affected holder of the Interest or license to be expropriated; and
- (b) pay fair and reasonable compensation to the holder of the Interest or license being expropriated.

Compensation Calculation

24.8 The total value of compensation payable under section 24.7(b) will be based as applicable on the following factors:

- (a) the fair market value of the Interest or license being expropriated;
- (b) the replacement value of any improvement to the land being expropriated;
- (c) the damages attributable to any disturbance; and
- (d) damages for reduction in the value of any remaining Interest.

Fair Market Value

24.9 The fair market value of an expropriated Interest or license is equivalent to the amount that would have been paid for the Interest or license if it had been sold on Shxwhá:y Village Land by a willing seller to a willing buyer.

Neutral Evaluation to Resolve Disputes

24.10 Subject to section 24.12, the resolution of a dispute concerning the right of Shxwhá:y Village to expropriate will be determined by neutral evaluation in the same manner as provided in Part IX of the Framework Agreement.

24.11 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.

Arbitration to Resolve Disputes

24.12 Resolution of the following disputes will be determined by arbitration in the same manner as provided in Part IX of the Framework Agreement:

- (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.

25. Voluntary Land Exchange

Conditions for a Land Exchange

25.1 Shxwhá:y Village may by agreement with another party exchange Shxwhá:y Village Land for land from that other party in accordance with this Land Code and the Framework Agreement.

No Effect

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

Land to be Received

25.3 A land exchange may proceed to a Ratification Vote only if the land to be received by Shxwhá:y Village:

- (a) is of equal or greater area than the Shxwhá:y Village Land to be exchanged;
- (b) is of a value comparable to the appraised value of the Shxwhá:y Village Land to be exchanged; and
- (c) is eligible to become a reserve under the *Indian Act* and Shxwhá:y Village Land subject to this Land Code.

Negotiators

25.4 A person who negotiates a land exchange agreement on behalf of Shxwhá:y Village will be designated by Resolution.

Additional Compensation

25.5 Shxwhá:y Village may accept additional compensation, including money or other land in addition to the land referred to in section 25.3.

25.6 Other land accepted under section 25.5 may be held by Shxwhá:y Village in fee simple or otherwise.

Federal Consent

25.7 Before Shxwhá:y Village 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 specify 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

25.8 At such time as negotiation of a land exchange agreement is concluded, and at least 30 days before the Ratification Vote provided for in section 25.2, Council will provide the following information to Members:

- (a) a description of the Shxwhá:y Village Land to be exchanged;
- (b) a description of the land to be received by Shxwhá:y Village;
- (c) a description of any additional compensation to be received;
- (d) a report of a certified land appraiser stating that the conditions in sections 25.3(a) and (b) have been met;
- (e) a copy of the land exchange agreement; and
- (f) a copy of the statement referred to in section 25.7.

Process of Land Exchange

25.9 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 Shxwhá:y Village 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 Shxwhá:y Lands Register and the First Nation Lands Register.

PART 6 CONFLICT OF INTEREST

26. Conflict of Interest

Application of Rules

26.1 Section 26.2 applies to:

- (a) a member of Council who is dealing with a matter before Council that is related to Shxwhá:y Village Land;
- (b) an employee of Shxwhá:y Village dealing with a matter that is related to Shxwhá:y Village Land; and
- (c) a member of a board, committee or other body of Shxwhá:y Village dealing with a matter that is related to Shxwhá:y Village Land.

Duty to Report and Abstain

26.2 If there is any financial or proprietary interest in a matter being dealt with that might involve an individual referred to in section 26.1, 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

26.3 Section 26.2 does not apply to an interest that is held by a Member in common with every other Member.

Meeting of Members

- 26.4 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, if a quorum of Eligible Voters is present, a majority of the Eligible Voters present at the meeting may enact the Law or Resolution.

Inability to Act

- 26.5 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

- 26.6 Determination of whether a breach of this section has occurred may be referred to the Adjudicator.

Penalty

- 26.7 In addition to any other penalty that may be prescribed by Law for breach of this Part, an individual is liable to Shxwhá:y Village for any benefit to himself, an Immediate Family member or a business in which that individual holds an interest resulting from a violation of this Part.

PART 7 INTERESTS AND LICENSES IN LAND

27. Limits on Interests and Licenses

All Dispositions in Writing

- 27.1 An Interest in, or license to use, Shxwhá:y Village Land may only be created, granted, disposed of, assigned or transferred by an instrument issued in accordance with this Land Code.

Standards

- 27.2 Council may, after full and fair consideration of any recommendations made by the Land Management Advisory Committee, establish mandatory standards, criteria and forms for Interests and licenses in Shxwhá:y Village Land.

Improper Transactions Void

- 27.3 An instrument by which Shxwhá:y Village, a Member or any other person purports to create, grant, dispose of, assign or transfer an Interest or license in Shxwhá:y Village

Land after the date this Land Code comes into effect is void if it contravenes this Land Code.

Non-Members

27.4 Subject to this Land Code, a person who is not a Member may hold an Interest other than a permanent Interest in Shxwhá:y Village Land.

Grants to Non-Members

27.5 The written consent of Council is required for a grant or disposition of an Interest in Shxwhá:y Village Land to a person who is not a Member.

28. Existing Interests

Continuation of Existing Interests

28.1 An Interest or license in Shxwhá:y Village 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 or license.

28.2 Council may, subject to an applicable ruling under Part 8 or by a court of competent jurisdiction, cancel or correct any Interest or license issued or allotted in error or by fraud.

29. New Interests and Licenses

Authority to Make Dispositions

29.1 Subject to this Land Code, Council may grant:

- (a) Interests and licenses in Shxwhá:y Village Land; and
- (b) permits and licenses to take resources from Shxwhá:y Village Land.

Conditional Grant

29.2 The grant of an Interest or license may be made subject to conditions.

30. Permanent Interests

Prohibition of Permanent Interests

30.1 Subject to section 13(1)(b) no tenure that establishes a permanent Interest in Shxwhá:y Village Land will be established under this Land Code.

30.2 Notwithstanding any other provision of this Land Code, a person who is not a Member may not hold a permanent Interest in Shxwhá:y Village Land.

31. Allocation of Residential Land

Allocation of Residential Lots

- 31.1 Council may, by lease or other disposition, allocate lots of Band land to Members for residential purposes.
- 31.2 A lot allocated under section 31.1 may not be allocated to a person who is not a Member.

32. Transfer and Assignment of Interests

Transfer of Interests

- 32.1 Council may enact Laws providing that a Member holding an Interest in Shxwhá:y Village Land may transfer, devise or otherwise dispose of that Interest to another Member.
- 32.2 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 36:
- (a) there will be no transfer or assignment of an Interest in Shxwhá:y Village Land without the written consent of Council; and
 - (b) the grant of an Interest or license is deemed to include section 32.2(a) as a condition of any subsequent transfer or assignment.

33. Limits on Mortgages and Seizures

Protections

- 33.1 In accordance with the Framework Agreement, sections 29, 87, 89(1) and 89(2) of the *Indian Act* continue to apply on Shxwhá:y Village Land.

Mortgage of Member's Interest

- 33.2 The Interest of a Member in Shxwhá:y Village Land other than a leasehold Interest may be subject to a mortgage or charge only to Shxwhá:y Village.

Mortgages of Leasehold Interests with Consent

- 33.3 A leasehold Interest may be subject to a charge or mortgage only with the written consent of Council.

Default in Mortgage of Leasehold

- 33.4 In the event of default in a charge or mortgage of a leasehold Interest, the leasehold Interest is not subject to possession by the chargee or mortgagee, foreclosure, power of sale or any other form of execution or seizure, unless:
- (a) the charge or mortgage received the written consent of Council;
 - (b) the charge or mortgage was registered in the Shxwhá:y Village Lands Register; and
 - (c) a reasonable opportunity to redeem the charge or mortgage was given to Council.

Power of Redemption

- 33.5 If Council exercises its power of redemption with respect to a leasehold Interest, Shxwhá:y Village becomes the lessee of the land and takes the position of the chargor or mortgagor for all purposes after the date of the redemption.

34. Residency and Access Rights

No Financial Obligation

- 34.1 A right of residence or access to Shxwhá:y Village Land will not imply any financial obligation on the part of Council.

Trespass

- 34.2 Subject to a Law under section 6.2(m), all civil remedies for trespass are preserved.

No Liability

- 34.3 No liability is imposed upon Shxwhá:y Village in respect of any person exercising a right of access under this Land Code for injuries or damages suffered on account of the condition or state of Shxwhá:y Village Land.

35. Transfers on Death or Mental Incompetence

Right of Widow or Widower

- 35.1 In the event that:
- (a) a Member holding an Interest in Shxwhá:y Village Land dies intestate and is survived by a Spouse or dependant who does not hold a registered Interest in that land; or

- (b) a Member holding an Interest in Shxwhá:y Village Land is declared incompetent due to mental incapacity,

the Member's Spouse or dependant 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.

- 35.2 A Spouse or dependant referred to in section 35.1, 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 Member's Interest, and Council will, subject to this Land Code, evaluate the application on its merits.

Location of Family Members

- 35.3 In the event that:

- (a) no other provision has been made by a Member referred to in section 35.1 for the disposition of the Interest in Shxwhá:y Village Land; or
- (b) the Member's Spouse or dependant does not within a reasonable time make application under section 35.2; 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 land held by the Member is available for disposition or is in dispute and the Member's Immediate Family may, with the assistance of the Panel if requested, recommend who is to receive the Interest in the land.

Meeting of Members

- 35.4 If a Member referred to in section 35.1 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 is to receive the Interest and may call a Meeting of Members to provide advice on the disposition of the Interest.
- 35.5 Council will make best efforts to influence the Minister of the Department of Indian and Northern Affairs to implement a recommendation made under section 35.3 or 35.4.

36. Spousal Property Law

Development of Rules and Procedures

- 36.1 Within twelve months after the date this Land Code comes into effect Council will enact a spousal property Law providing rules and procedures applicable on the breakdown of a marriage to:
- (a) the use, occupancy and possession of Shxwhá:y Village Land; and
 - (b) the division of Interests in that land.

Enactment of Rules and Procedures

- 36.2 For greater certainty, the rules and procedures contained in the spousal property Law will be developed in consultation with the Members and the Land Management Advisory Committee.

General Principles

- 36.3 The rules and procedures developed under section 36.2 will take into account the following general principles:
- (a) regard for the best Interests of any children of the marriage;
 - (b) the distinction between Members and non-Members for the purpose of determining what Interest in Shxwhá:y Village Land may be held by an individual; and
 - (c) the rules and procedures will not discriminate on the basis of sex.

Interim Law

- 36.4 Council may enact an interim spousal property Law at any time within the twelve month period prescribed in section 36.1.
- 36.5 An interim Law enacted under section 36.4 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 36.1.

PART 8 DISPUTE RESOLUTION

37. Adjudicator of Disputes

Informal Resolution of Disputes

- 37.1 Shxwhá:y Village intends that wherever possible, a dispute in relation to Shxwhá:y Village Land 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 a dispute without recourse to this Part.
- 37.2 Shxwhá:y Village further intends that wherever possible, a dispute in relation to Shxwhá:y Village Land that is not resolved by informal discussions by the parties to the dispute be resolved through voluntary participation of the parties to the dispute in a tribal or other alternate justice forum.

Adjudicator Established

- 37.3 The office of Adjudicator is hereby established to hear and resolve disputes in relation to Shxwhá:y Village Land.
- 37.4 The Adjudicator will be a Barrister and Solicitor and a member of the British Columbia Bar who is independent of the parties to a dispute and other Interests in the dispute.

Representation

- 37.5 Council will appoint the Adjudicator.

38. Dispute Resolution Procedure

Disputes

- 38.1 The parties to a dispute in relation to Shxwhá:y Village Land may refer the dispute to the Adjudicator for resolution or opinion.

Prior Disputes

- 38.2 Disputes that originated before this Land Code comes into effect may be referred to the Adjudicator.

Optional Process

- 38.3 Referral of a dispute to the Adjudicator is optional and all other civil remedies continue to be available to a party to the dispute.

Application Procedures

38.4 Referral of a dispute to the Adjudicator will be made in accordance with procedures established by Council in consultation with the Adjudicator and the Land Management Advisory Committee.

Limitation Period

38.5 The limitation period for referring a dispute to the Adjudicator is:

- (a) thirty days after the day the decision, act or omission that is the subject of the dispute occurred; or
- (b) in the case of a dispute under section 35, 12 months after the date of the final decision of Council under that section.

39. Impartiality

Duty to Act Impartially

39.1 The Adjudicator will act impartially and without bias or favour to any party in a dispute.

Offence

39.2 It is an offence for a person to act, or attempt to act, in a way to improperly influence a decision of the Adjudicator.

Rejection of Application

39.3 In addition to any other penalty provided for an offense under section 39.2, the Adjudicator may refuse an application to hear a dispute if the Adjudicator reasonably concludes that the applicant acted, or attempted to act, in a way to improperly influence the Adjudicator's decision.

40. Powers of Adjudicator

Powers of Panel

40.1 The Adjudicator may, after hearing a dispute:

- (a) confirm or reverse the decision in dispute, in whole or in part;
- (b) substitute his own decision for the decision in dispute;
- (c) direct that an action be taken or ceased;
- (d) refer the matter or dispute for reconsideration; or

- (e) refer the matter to a tribal or other forum.

Rules of Panel

- 40.2 The Adjudicator may, consistent with this Land Code, establish rules for procedure at its hearings and for the general conduct of his proceedings.

Professional Services

- 40.3 The Adjudicator may retain the services of professionals to assist it in fulfilling his functions, in which case he will make best efforts to use professional services available in the community.

Decisions

- 40.4 The Adjudicator will give written reasons for a decision.
- 40.5 Written decisions of the Adjudicator will be signed by the Adjudicator.
- 40.6 Subject to section 40.7, a decision of the Adjudicator is binding.

Appeal of Decision

- 40.7 Subject to any exception established by a Law a decision of the Adjudicator may be appealed to the Federal Court of Canada.

Costs

- 40.8 Unless otherwise ordered by the Adjudicator or an appellate court, the parties to a dispute will bear their own costs.

Alternate Forums

- 40.9 Nothing in this part precludes Council or the Land Management Advisory Committee from establishing additional processes for resolving disputes under this Part, which processes may include facilitated discussion, mediation, arbitration or referral to a tribal or other forum.

PART 9 OTHER MATTERS

41. Liability

Liability Insurance

- 41.1 Council will arrange for, maintain and pay insurance coverage for:

- (a) liability of Shxwhá:y Village in relation to Shxwhá:y Village Land; and
- (b) personal liability of Shxwhá:y Village officers and employees for acts done in good faith while engaged in carrying out duties related to Shxwhá:y Village Land.

Extent of Coverage

41.2 Council will determine the extent of insurance coverage under section 41.1.

42. Enforcement

Application of the Criminal Code

42.1 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

42.2 Council may enact Laws respecting appointment of justices of the peace for the enforcement of this Land Code and Laws.

Provincial Courts

42.3 If no justice of the peace is appointed, this Land Code and Laws are to be enforced in the Provincial Court of British Columbia or British Columbia Supreme Court as the case may require.

43. Amendment

Ratification Vote

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

43.2 The quorum at a Meeting of Members under this section is 25 Eligible Voters.

43.3 Where an amendment proposed under section 43.1 cannot be decided due to lack of quorum at a Meeting of Members, Council may by Resolution refer the matter to be decided by Ratification Vote.

43.4 Notwithstanding section 43.1, an amendment of this Land Code which establishes a permanent Interest in Shxwhá:y Village Land must receive prior approval by a Ratification Vote.

44. Commencement

Ratification

44.1 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

44.2 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.