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q̣ʷa:ṇḷəṇ (Kwantlen) First Nation Land Code

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Certified a true copy of the original which does not appear to have been altered in any way.

tə šxʷxixáʔəmət tə ná təməxʷ

The way we care for this land (land law).

CERTIFIED
OCT 04 2015

Jody R.H. Conroy
October 7, 2015

JODY R.H. CONROY
Notary Public

5690 Mermaid Street, P.O. Box 1188
Sechelt, B.C. V0N 3A0
304-885-2122 Fax: 604-885-4101

Joseph

In accordance with:

The Framework Agreement on First Nation Land Management

Dated for reference: February 21, 2015

THIS IS A CERTIFIED TRUE COPY OF THE
q̣ʷa:ṇḷəṇ (Kwantlen) First Nation Land Code,
SHOWN BEFORE ME AT

BRITISH COLUMBIA ON
THE _____ DAY OF _____, 2015

This is Exhibit " 1 " referred to in the
Affidavit of Brian Jones
Sworn before me at Sechelt
in the Province of British Columbia
this 21st day of February, 2015.

Tracy D. Parker
A Commissioner for taking Affidavits
within British Columbia

TRACY D. PARKER
A Notary Public in and for
the Province of British Columbia

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Sechelt

Q̣ʷa:ṇḷəṇ

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Q̣ẉ:ñḳəñ
COUNCIL

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PREAMBLE

WHEREAS q̓ʷa:ḥłəḥ has lived since time immemorial by t̓ʰa?kʷs t̓ə šxʷtəʔes (seven traditional laws) that guided their ancestors and inform the creation of new q̓ʷa:ḥłəḥ laws:

- šxʷʔəy̓əʔ (health);
- hiləkʷ (happiness);
- ʔəwə ce:p smet̓ʰənep (humbleness);
- xʷliłəq (generosity);
- syəwənəʔ, šxʷwéləy, ʔiʔ sʔəy̓éq (generations);
- q̓ʷałtəł (forgiveness); and,
- tələnəxʷ (understanding);

AND WHEREAS q̓ʷa:ḥłəḥ holds a sacred and spiritual connection and relationship to its lands and resources based on rich cultural traditions and teachings;

AND WHEREAS q̓ʷa:ḥłəḥ wishes to reclaim and resume its responsibility to govern its lands and resources in a manner that honours q̓ʷa:ḥłəḥ culture and traditions and enhances q̓ʷa:ḥłəḥ decision making and self-governance;

AND WHEREAS q̓ʷa:ḥłəḥ has become a signatory to the Framework Agreement on First Nation Land Management between Her Majesty in right of Canada and a specific group of First Nations concluded on February 12, 1996, as amended, which agreement was ratified by Canada by the enactment of the *First Nations Land Management Act*;

AND WHEREAS pursuant to the *First Nations Land Management Act*, q̓ʷa:ḥłəḥ wishes to establish a land management regime and adopt a land code applicable to its reserve lands;

NOW THEREFORE, this Land Code, governing the management and administration of the q̓ʷa:ḥłəḥ Lands, is adopted by hiwaʔqʷ ʔiʔ səyən in accordance with the *First Nations Land Management Act*.

PART 1 - PRELIMINARY MATTERS

1. Title

The title of this enactment is "q̓ʷa:ḥłəḥ (Kwantlen) First Nation Land Code - t̓ə šxʷxixáʔəmət t̓ə ḥa təməxʷ - *the way we care for this land (land law)*".

ḥəiḥq̓əmiḥən language references:

hiwaʔqʷ ʔiʔ səyən – Kwantlen Council

siyałəxʷeʔ - Kwantlen Elders Group



q̓ʷa:ḥłəḥ - Kwantlen First Nation

xixáʔəmət ct t̓ə ḥa təməxʷ - Lands advisory committee

2. Purpose

The purpose of this Land Code is to set out the rules, principles and administrative structures that apply to q̓ʷa:ḥłəḥ Lands and by which q̓ʷa:ḥłəḥ will exercise authority over those lands.

3. Ratification of Framework Agreement

The Framework Agreement is ratified and confirmed by q̓ʷa:ḥłəḥ when this Land Code takes effect.

4. Fundamental Principles

4.1 The Land Code shall be interpreted in accordance with the principles set out in articles 4 to 9.

4.2 Since time immemorial, q̓ʷa:ḥłəḥ has occupied and used its lands, waters and resources, and has never surrendered or relinquished its aboriginal title. In areas of shared interests with other aboriginal groups, q̓ʷa:ḥłəḥ has established access and resource-sharing protocols.

4.3 The authority of q̓ʷa:ḥłəḥ to govern its lands and resources is based on its inherent right of self-government and its other aboriginal rights, including aboriginal title.

4.4 Nothing in this Land Code is intended to or does abrogate or derogate from any aboriginal, treaty or other rights and freedoms that pertain now or in the future to q̓ʷa:ḥłəḥ or Members.

4.5 This Land Code is not intended to affect the eligibility of q̓ʷa:ḥłəḥ or any Member to receive services or participate in public or aboriginal focussed programs as may be established from time to time to the extent that q̓ʷa:ḥłəḥ has not assumed responsibility for such services or programs.

4.6 Nothing in this Land Code is intended to or does abrogate the fiduciary relationship between Canada and q̓ʷa:ḥłəḥ and between Canada and Members.

4.7 q̓ʷa:ḥłəḥ will continue to carry out its responsibility to protect and manage q̓ʷa:ḥłəḥ Lands for future generations in accordance with q̓ʷa:ḥłəḥ culture and traditions, as they continue to evolve and find modern expressions, in accordance with this Land Code.

4.8 The structures, bodies and procedures established as part of this Land Code shall incorporate q̓ʷa:ḥłəḥ culture and traditions, including consideration of the following specific q̓ʷa:ḥłəḥ traditional teachings:

- (a) xixá'təm'fcət tə s'əyēq ct ?ə tə ḥa təməxʷ ?i? kʷəθə syəθs – *caring for the land and its resources for the benefit of our descendants (next generations).*
- (b) šxʷ?əy's kʷə ctamət – *doing things in a good way (with a good heart and good mind) and with səyemstəxʷ (respect – her/him).*
- (c) skʷey' kʷs ?i ct yəha:y'θət – *we can't be taking everything for ourselves and leaving nothing for anyone else – use only what we need.*

həh'qəmihəm language references:

hiwə'qʷ ?i? səyem – Kwantlen Council

siyaləxʷe? – Kwantlen Elders Advisory Group



q̓ʷa:ḥłəḥ - Kwantlen First Nation



xixá'təmət ct tə ḥa təməxʷ - Lands advisory committee

5. Definitions

In this Land Code, including the Preamble:

- (a) "Allotment" means:
 - (i) an Interest in q̣ʷa:ḥłəḥ Lands, granted pursuant to article 23, which gives a Member lawful possession of a part of q̣ʷa:ḥłəḥ Lands; or
 - (ii) an Interest or right in q̣ʷa:ḥłəḥ Lands, granted prior to the effective date of this Land Code pursuant to section 20 of the *Indian Act*, which gives a Member lawful possession of a part of q̣ʷa:ḥłəḥ Lands.
- (b) "Arbitrator" means an independent third party appointed by hiwá?qʷ ʷi? səyəm̄ to determine the validity of the results of a Referendum.
- (c) "Band List" has the meaning provided in the *Indian Act*.
- (d) "Budget" means the annual estimate of revenues and expenditures in relation to the management and administration of q̣ʷa:ḥłəḥ Lands.
- (e) "Canada" means Her Majesty the Queen in right of Canada.
- (f) "Claimant" means a Member who claims to be entitled to an Allotment by testamentary disposition or succession pursuant to the *Indian Act*, as more particularly described in section 29.1.
- (g) "Community Lands" means all or any part of q̣ʷa:ḥłəḥ Lands in which no Allotment has been made.
- (h) "Consult" has the meaning provided for in article 9.
- (i) "*Criminal Code*" means the *Criminal Code*, R.S.C. 1985, c. C-46.
- (j) "Deputy Referendum Officer" means a person appointed by a Referendum Officer for the purposes of a Referendum.
- (k) "Director of Finance and Administration" means the person who oversees the finance department of q̣ʷa:ḥłəḥ and holds the title "Director of Finance and Administration" with q̣ʷa:ḥłəḥ.
- (l) "Eligible Voter" means a Member who is 18 years or older:
 - (i) on the date of mailing or delivery of the Final Draft, for the purposes of paragraph 13.3(f)(ii);

həḥq̣əmit̄əḥ language references:

hiwá?qʷ ʷi? səyəm̄ – Kwantlen Council

siyałəxʷe? – Kwantlen Elders Advisory Group

q̣ʷa:ḥłəḥ – Kwantlen First Nation

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- (ii) on the date of mailing or delivery of the written report to the Eligible Voters, for the purposes of paragraph 32.4(b)(iii);
- (iii) on the commencement date of the Member's term as a member of the xixá'təmət ct tə ñá təməx^w, for the purposes of Part 4;
- (iv) on the date scheduled for the General Members Meeting, for the purposes of Part 8; or
- (v) on the date a Referendum is scheduled to be held, for the purposes of Part 9.
- (m) "**Expropriation Act**" means the *Expropriation Act*, R.S.C. 1985, c. E-21.
- (n) "**Excluded Land**" means those lands described as "Excluded Land" in Annex "G" of the Individual Agreement.
- (o) "**Financial Institution**" means a deposit taking institution approved by the Financial Institutions Commission, an agency of the Government of British Columbia or the Office of the Superintendent of Financial Institutions, an agency of the Government of Canada.
- (p) "**First Draft**" means the draft q̣'w'a:ñłəñ Land Law posted in accordance with subsection 13.3(a).
- (q) "**First Nations Land Management Act**" means the *First Nations Land Management Act*, S.C. 1999, c. 24.
- (r) "**First Nation Land Register**" means the register established by the Minister pursuant to section 25(1) of the *First Nations Land Management Act*, or its successor or replacement.
- (s) "**Final Draft**", in respect of a proposed q̣'w'a:ñłəñ Land Law, means the draft law prepared pursuant to subsection 13.3(e).
- (t) "**Framework Agreement**" means the Framework Agreement on First Nation Land Management between Canada and a specific group of First Nations concluded on February 12, 1996, as amended, which agreement was ratified by Canada by the enactment of the *First Nations Land Management Act*.
- (u) "**General Members Meeting**" means a meeting of Members held pursuant to Part 8.
- (v) "hiwá?q^w ?i? səyəñ" means the "council of the band" of q̣'w'a:ñłəñ within the meaning of the *Indian Act* and includes any successor to, or replacement of, said council.
- (w) "**Holder**" means the holder of a Permit or Interest in q̣'w'a:ñłəñ Lands subject to an expropriation or proposed expropriation pursuant to article 32.
- (x) "**Indian Act**" means the *Indian Act*, R.S.C. 1985, c. I-5.

həñq̣əmiñəm language references:

hiwá?q^w ?i? səyəñ - Kwantlen Council

siyałəx^we? - Kwantlen Elders Advisory Group

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q̣'w'a:ñłəñ - Kwantlen First Nation

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- (y) **"Individual Agreement"** means the Individual Agreement on First Nation Land Management between q̣'w'a:n̄łəñ and Canada entered into in accordance with clause 6.1 of the Framework Agreement.
- (z) **"Interest"**, in relation to q̣'w'a:n̄łəñ Lands, means any estate or interest in land but does not include title to the land. Without limiting the generality of the foregoing, an Interest includes:
 - (i) an Allotment;
 - (ii) a leasehold interest;
 - (iii) a mortgage of a leasehold interest; and
 - (iv) an easement.
- (aa) **"Land Code"** means this q̣'w'a:n̄łəñ (Kwantlen) First Nation Land Code - tə šx̣'wixá'təmət tə ña təməx̣'w - *the way we care for this land (land law)*.
- (bb) **"Lands Manager"** means the person who oversees the lands department of q̣'w'a:n̄łəñ and holds the title "Lands Manager" with q̣'w'a:n̄łəñ.
- (cc) **"Majority"** means 50% plus one.
- (dd) **"Member"** means a person whose name appears on the "Band List" of q̣'w'a:n̄łəñ maintained by q̣'w'a:n̄łəñ pursuant to the *Indian Act*.
- (ee) **"Membership Clerk"** means the person at q̣'w'a:n̄łəñ who is charged with the responsibility of maintaining the Band List of q̣'w'a:n̄łəñ and holds the title of "Membership Clerk" with q̣'w'a:n̄łəñ.
- (ff) **"Minister"** means the Minister of Aboriginal Affairs and Northern Development.
- (gg) **"Natural Resources"** includes water, timber, minerals (precious and base), stone, sand, gravel, clay, soil, coal, petroleum, gas and gases and other naturally occurring substances.
- (hh) **"Permit"**, in relation to q̣'w'a:n̄łəñ Lands, means any right to the non-exclusive use or occupation of land and includes, for greater certainty, a licence but does not include an Interest.
- (ii) **"Purchaser"** means a Member, referred to in section 29.2, who purchases an Allotment pursuant to subsection 50(2) of the *Indian Act*.
- (ij) **"q̣'w'a:n̄łəñ"** means Kwantlen First Nation, a band within the meaning of the *Indian Act* and includes any successor to, or replacement of, the Kwantlen First Nation.

həñq̣'amihəñ language references:

hiw'a?q̣'ẉ' ʔi? səyem̄ - Kwantlen Council

siyałəx̣'w'e? - Kwantlen Elders Advisory Group

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q̣'w'a:n̄łəñ - Kwantlen First Nation

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- (kk) "q̣ʷa:ḥłəḥ (Kwantlen) Community Ratification Process" is the process dated for reference February 21, 2015 which outlines the requirements for the approval of this Land Code and the Individual Agreement by Eligible Voters.
- (ll) "q̣ʷa:ḥłəḥ Lands" has the meaning provided for in section 10.1.
- (mm) "q̣ʷa:ḥłəḥ Land Law" means a law in relation to q̣ʷa:ḥłəḥ Lands enacted under Part 2.
- (nn) "Referendum" means a referendum held pursuant to Part 9.
- (oo) "Referendum Officer" means a person appointed by hiwá?qʷ ʔi? səyem̓ pursuant to subsection 60.2(c) for the purposes of a Referendum.
- (pp) "Replacement Lands" has the meaning provided in subsection 31.1(a).
- (qq) "Resolution" means a resolution of hiwá?qʷ ʔi? səyem̓ consented to by a Majority of the members of hiwá?qʷ ʔi? səyem̓ present at a meeting of the hiwá?qʷ ʔi? səyem̓ duly convened.
- (rr) "Second Draft" means the draft q̣ʷa:ḥłəḥ Land Law prepared pursuant to subsection 13.3(b).
- (ss) "siyaləxʷeʔ" means the group of q̣ʷa:ḥłəḥ elders appointed by hiwá?qʷ ʔi? səyem̓ which meets with hiwá?qʷ ʔi? səyem̓ on a regular basis to consider issues of importance to q̣ʷa:ḥłəḥ.
- (tt) "Subject" means a person referred to in section 52.2 whom another person has reasonable grounds to believe has a conflict of interest.
- (uu) "Supplementary Budget" means changes to a Budget as adopted by hiwá?qʷ ʔi? səyem̓.
- (vv) "Verifier" means the person appointed pursuant to the *First Nations Land Management Act* to verify the opting in process for a First Nation;
- (ww) "Voter Declaration Form" means a document that sets out:
 - (i) the name of the Eligible Voter;
 - (ii) the q̣ʷa:ḥłəḥ membership number of the Eligible Voter; and
 - (iii) the name, address and telephone number of a witness to the signature of the Eligible Voter.
- (xx) "xixáʔəmət ct tə ḥa təməxʷ" means the lands advisory committee established pursuant to Part 4 (*caring for our land*).

həḥq̣əmiḥəm̓ language references:

hiwá?qʷ ʔi? səyem̓ – Kwantlen Council

siyaləxʷeʔ – Kwantlen Elders Advisory Group

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6. Interpretation

- 6.1 Any reference in this Land Code to a statute includes the regulations made under the statute, and any amendment or replacement to the statute or regulations, or a part thereof, from time to time.
- 6.2 A reference to a Part, article, section, subsection or paragraph in this Land Code means a Part, article, section, subsection or paragraph of this Land Code, unless otherwise stated.
- 6.3 All headings in this Land Code are inserted as a matter of convenience and for reference only and in no way define, limit, enlarge, modify or explain the scope or meaning of this Land Code or any of its provisions.
- 6.4 Words in the singular include the plural, words in the plural include the singular and words in the masculine include the feminine, where the context so requires.

7. Timing Interpretation

- 7.1 Where the time limited for the carrying out of an act expires or falls on a statutory holiday, the act may be carried out on the day next following that is not a statutory holiday.
- 7.2 Where the time limited for the carrying out of an act expires or falls on a day when the administration offices of q̣ʷa:ńłəń are not open during regular business hours, the act may be carried out on the next day that the administration offices of q̣ʷa:ńłəń are open during regular business hours.
- 7.3 Where there is a reference to "at least" a number of days between two events, in calculating that number of days, the day on which the first event happens is excluded and the day on which the second event happens is included.

8. Paramountcy

- 8.1 If there is an inconsistency between this Land Code and any other enactment of q̣ʷa:ńłəń, this Land Code prevails to the extent of the inconsistency.
- 8.2 If there is an inconsistency between this Land Code and the Framework Agreement, the Framework Agreement prevails to the extent of the inconsistency.

9. Consultation

Whenever hiwa?q̣ʷ ʔi? səyem̄ or an Allotment Holder is required under this Land Code to consult with the xixáʔem̄et ct tə ńa təm̄əx̄ʷ and the siyaʔəx̄ʷe? on a matter, hiwa?q̣ʷ ʔi? səyem̄ or the Allotment Holder, as the case may be, must:

- (a) hold at least one meeting with the xixáʔem̄et ct tə ńa təm̄əx̄ʷ and the siyaʔəx̄ʷe?, which may be held separately or jointly;

həńq̣em̄ińem̄ language references:

hiwa?q̣ʷ ʔi? səyem̄ – Kwantlen Council

siyaʔəx̄ʷe? - Kwantlen Elders Advisory Group

q̣ʷa:ńłəń - Kwantlen First Nation

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- (b) at least seven (7) days prior to the meeting referred to in subsection (a) above, hiwa?q̣'ẉ ?i? səyəm̄ or the Allotment Holder, as the case may be, has provided to the xixá'təm̄ət ct tə ña təm̄əx̣'ẉ or the siyałəx̣'ẉe?, as applicable, an agenda for the meeting and such written materials as may be relevant in respect of the subject matter of the meeting;
- (c) allocate sufficient time during the meeting for members of the xixá'təm̄ət ct tə ña təm̄əx̣'ẉ or the siyałəx̣'ẉe?, as applicable, to ask questions; and
- (d) seek the input of the members of the xixá'təm̄ət ct tə ña təm̄əx̣'ẉ or the siyałəx̣'ẉe? regarding the subject matter of the meeting.

10. Description of q̣'wa:ñłəñ Lands

10.1 q̣'wa:ñłəñ Lands that are subject to this Land Code are:

- (a) Whonnock Indian Reserve No. 1;
- (b) Langley Indian Reserve No. 2;
- (c) Langley Indian Reserve No. 3;
- (d) Langley Indian Reserve No. 4;
- (e) Langley Indian Reserve No. 5; and
- (f) McMillan Island Indian Reserve No. 6,

and include all the interests or rights in, and resource of, those lands that are within the legislative authority of Canada, but does not include the Excluded Land.

10.2 Excluded Land and other lands that are subsequently set apart by Canada as a reserve for the use and benefit of q̣'wa:ñłəñ may be made subject to this Land Code provided that the Individual Agreement is amended to include such lands as "Kwantlen First Nation Land", as this term is used in the Individual Agreement.

PART 2 - LAW ENACTMENT POWERS AND PROCEDURES

11. Application

This Part 2 applies to the enactment of laws in respect of the management and administration of q̣'wa:ñłəñ Lands.

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həðq̣əmiñəñ language references:

hiwa?q̣'ẉ ?i? səyəm̄ – Kwantlen Council

q̣'wa:ñłəñ - Kwantlen First Nation

siyałəx̣'ẉe? - Kwantlen Elders Advisory Group

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xixá'təm̄ət ct tə ña təm̄əx̣'ẉ - Lands advisory committee

12. Law Enactment Powers

12.1 hiwa?q̣'ẉ ?i? səyəṃ has the power to enact laws respecting:

- (a) Permits or Interests in relation to q̣'wa:ṇ'x̣əñ Lands;
- (b) the development, conservation, protection, management, use and possession of q̣'wa:ṇ'x̣əñ Lands; and
- (c) any matter arising out of, or ancillary to, the exercise of that power,

in accordance with the procedures set out in this Part 2.

12.2 Without limiting the generality of section 12.1, hiwa?q̣'ẉ ?i? səyəṃ has the power to enact laws respecting:

- (a) the regulation, control or prohibition of land use and development including zoning and subdivision control of q̣'wa:ṇ'x̣əñ Lands;
- (b) subject to section 5 of the *First Nations Land Management Act*, the creation, acquisition and granting of Permits or Interests in q̣'wa:ṇ'x̣əñ Lands and prohibitions in relation thereto;
- (c) environment assessment and environmental protection of q̣'wa:ṇ'x̣əñ Lands;
- (d) the provision of local services in relation to q̣'wa:ṇ'x̣əñ Lands and the imposition of equitable user charges for those services; and
- (e) the provision of services for the resolution of disputes in relation to q̣'wa:ṇ'x̣əñ Lands.

12.3 A q̣'wa:ṇ'x̣əñ Land Law may provide for enforcement measures, consistent with federal laws, such as the power to inspect, search and seize and to order compulsory sampling, testing and the production of information.

13. Law Making Procedure

13.1 hiwa?q̣'ẉ ?i? səyəṃ shall Consult with the siyaləx̣'we? and the xixá'təṃət ct tə ńa təṃəx̣'ẉ from time to time to seek their input on areas where regulation by a q̣'wa:ṇ'x̣əñ Land Law may be necessary or desirable.

13.2 A proposed q̣'wa:ṇ'x̣əñ Land Law, or a topic for a proposed q̣'wa:ṇ'x̣əñ Land Law, may be introduced at a meeting of hiwa?q̣'ẉ ?i? səyəṃ by:

- (a) a representative of the xixá'təṃət ct tə ńa təṃəx̣'ẉ, siyaləx̣'we? or other body composed of Members that may be authorized by Council to do so;

həñq̣əmiñəñ language references:

hiwa?q̣'ẉ ?i? səyəṃ - Kwantlen Council

siyaləx̣'we? - Kwantlen Elders Advisory Group

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- (b) a member of hiw̄a?q̣'w̄ ?i? səyem̄; or
- (c) the Lands Manager,

for consideration and discussion purposes.

13.3 Before a proposed q̣'w'a:n̄łəñ Land Law may be enacted by hiw̄a?q̣'w̄ ?i? səyem̄, the following conditions must be satisfied in the order listed:

- (a) a draft of the proposed q̣'w'a:n̄łəñ Land Law (the "First Draft") must be posted for at least thirty (30) days:
 - (i) at the administrative offices of q̣'w'a:n̄łəñ; and
 - (ii) at a location other than the administrative offices of q̣'w'a:n̄łəñ or electronically on the website of q̣'w'a:n̄łəñ,

with a request for written comments from Members which shall stipulate an expiry date for the receipt of those comments that is no earlier than seven (7) days after the last day of said thirty (30)-day minimum posting period;

- (b) upon the expiration of the time for submitting comments provided for in subsection (a) above, hiw̄a?q̣'w̄ ?i? səyem̄ shall consider the comments received and prepare the next draft of the q̣'w'a:n̄łəñ Land Law, which may or may not include revisions to the First Draft (the "Second Draft");

- (c) the Second Draft must be posted for at least thirty (30) days:

- (i) at the administrative offices of q̣'w'a:n̄łəñ;
- (ii) at a location other than the administrative offices of q̣'w'a:n̄łəñ or electronically on the website of q̣'w'a:n̄łəñ,

with a request for written comments from Members which shall stipulate an expiry date for the receipt of those comments that is no earlier than seven (7) days after the last day of said 30-day minimum posting period;

- (d) no earlier than five (5) days after the expiry date for the receipt of comments provided for in subsection (c) above, hiw̄a?q̣'w̄ ?i? səyem̄ shall hold a General Members Meeting to review the Second Draft;

- (e) hiw̄a?q̣'w̄ ?i? səyem̄ shall consider the comments received at the General Members Meeting held pursuant to subsection (d) above and prepare the next draft of the q̣'w'a:n̄łəñ Land Law, which may or may not include revisions to the Second Draft (the "Final Draft");

həh̄q̣em̄ih̄em̄ language references:

hiw̄a?q̣'w̄ ?i? səyem̄ -- Kwantlen Council

siyal̄əx̄'e? - Kwantlen Elders Advisory Group

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- (f) Before the Final Draft may be enacted, it must be:
 - (i) posted for at least fourteen (14) days prior to the proposed date for its enactment:
 - A. at the administrative offices of q̣'wa:ṇ'x̣əḥ; and
 - B. at a location other than the administrative offices of q̣'wa:ṇ'x̣əḥ or electronically on the website of q̣'wa:ṇ'x̣əḥ,
 - (ii) delivered or mailed, either by post or electronically, to all Eligible Voters at the last known physical or electronic address of each Eligible Voter at least fourteen (14) days prior to the proposed date for its enactment; and
 - (iii) tabled at a duly convened hiẉa?q̣'ẉ ?i? ṣəỵeṃ́ meeting at least fourteen (14) days prior to the proposed date for its enactment.

13.4 hiẉa?q̣'ẉ ?i? ṣəỵeṃ́ may enact a q̣'wa:ṇ'x̣əḥ Land Law without the preliminary steps required under section 13.3 if hiẉa?q̣'ẉ ?i? ṣəỵeṃ́ is of the opinion that that the q̣'wa:ṇ'x̣əḥ Land Law is needed urgently to protect the health or safety of Members or q̣'wa:ṇ'x̣əḥ Lands, but a q̣'wa:ṇ'x̣əḥ Land Law enacted on an urgent basis pursuant to this section 13.4 expires sixty (60) days after its enactment, or on such earlier date as may be stipulated in that q̣'wa:ṇ'x̣əḥ Land Law.

14. Approval, Certification and Publication of q̣'wa:ṇ'x̣əḥ Land Laws

- 14.1 A q̣'wa:ṇ'x̣əḥ Land Law is enacted if it is approved by a Resolution.
- 14.2 The members of hiẉa?q̣'ẉ ?i? ṣəỵeṃ́ who sign the Resolution approving a q̣'wa:ṇ'x̣əḥ Land Law shall sign an original copy of that q̣'wa:ṇ'x̣əḥ Land Law.
- 14.3 Within seven (7) days after a q̣'wa:ṇ'x̣əḥ Land Law has been enacted, the Lands Manager shall post a copy of that q̣'wa:ṇ'x̣əḥ Land Law for at least thirty (30) days:
 - (a) at the administrative offices of q̣'wa:ṇ'x̣əḥ; and
 - (b) at a location other than the administrative offices of q̣'wa:ṇ'x̣əḥ or electronically on the website of q̣'wa:ṇ'x̣əḥ.

15. Register of q̣'wa:ṇ'x̣əḥ Land Laws

15.1 The Lands Manager shall keep at the administrative offices of q̣'wa:ṇ'x̣əḥ, or such other place as may be designated by hiẉa?q̣'ẉ ?i? ṣəỵeṃ́, a register of an original copy of all q̣'wa:ṇ'x̣əḥ Land Laws, including q̣'wa:ṇ'x̣əḥ Land Laws that have been repealed or are no longer in force, an original copy of all amendments to q̣'wa:ṇ'x̣əḥ Land Laws and an original copy of all Resolutions repealing a q̣'wa:ṇ'x̣əḥ Land Law.

ḥəḥq̣aṃiḥəṃ́ language references:

hiẉa?q̣'ẉ ?i? ṣəỵeṃ́ - Kwantlen Council

siya'əx̣'e? - Kwantlen Elders Advisory Group

q̣'wa:ṇ'x̣əḥ - Kwantlen First Nation

xix̣á'təṃ́ət ct ṭə ḥə ṭəṃ́əx̣' - Lands advisory committee

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15.2 Any person may, upon request, obtain a copy of a q̣ẉa:ñłəñ Land Law, an amendment of a q̣ẉa:ñłəñ Land Law or a Resolution repealing a q̣ẉa:ñłəñ Land Law, certified to be a true copy thereof by the Lands Manager upon the payment of such fee as may be prescribed, except that a Member may obtain, upon request, a copy free of charge.

16. Effective Date of Land Laws

A q̣ẉa:ñłəñ Land Law takes effect on the date of the Resolution approving its enactment or on such later date as may be specified under that q̣ẉa:ñłəñ Land Law.

17. Repeal and Amendment of q̣ẉa:ñłəñ Land Laws

17.1 A q̣ẉa:ñłəñ Land Law may be repealed or amended in accordance with the procedure specified in that law.

17.2 If a q̣ẉa:ñłəñ Land Law does not specify a procedure for its repeal or amendment, that q̣ẉa:ñłəñ Land Law may be repealed or amended by the same procedure as that provided for the enactment of a q̣ẉa:ñłəñ Land Law set out in this Part 2.

17.3 An amendment of a q̣ẉa:ñłəñ Land Law takes effect on the date of the Resolution approving that amendment or on such later date as may be specified in that amendment.

PART 3 - LAND RULES

18. Purpose

The purpose of this Part 3 is to set out the principles and rules pursuant to which q̣ẉa:ñłəñ will exercise its jurisdiction to manage and administer q̣ẉa:ñłəñ Lands.

19. Existing Interests and Permits

19.1 Interests and Permits in q̣ẉa:ñłəñ Lands approved, created, granted or issued pursuant to the *Indian Act* and existing as of the effective date of this Land Code shall continue to have effect in accordance with their terms and conditions.

19.2 Where an instrument that approved, created, granted or issued a Permit or Interest in q̣ẉa:ñłəñ Lands described in section 19.1 provides for an action to be taken by the Minister or Canada, the responsibility for such action after the date this Land Code takes effect shall be with hiẉa?q̣ẉ ?i? səyəm̄, except that where such instrument pertains to a Permit or Interest in q̣ẉa:ñłəñ Lands that are subject to an Allotment, hiẉa?q̣ẉ ?i? səyəm̄ may, by Resolution, transfer the responsibility for taking an action under such instrument to the holder of the Allotment.

həñq̣əmiñəñ language references:

hiẉa?q̣ẉ ?i? səyəm̄ - Kwantlen Council

siyaləx̣ẉe? - Kwantlen Elders Advisory Group

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19.3 Subject to section 19.1, all conditional surrenders and designations of q̣'wa:ńłəń Lands made pursuant to the *Indian Act* shall hereby be revoked.

20. No Interest or Right Created or Transferred

20.1 From the effective date of the Land Code, a Permit or Interest in q̣'wa:ńłəń Lands may only be created, granted, assigned, transferred, disposed of or otherwise dealt with by a written document in accordance with the requirements of this Part 3.

20.2 No person may acquire a Permit or Interest in q̣'wa:ńłəń Lands by use, occupation or any other means not authorized under this Land Code.

21. Registration of Permits and Interests in q̣'wa:ńłəń Lands

21.1 All instruments purporting to create, grant, assign, transfer, dispose of or otherwise deal with a Permit or Interest in q̣'wa:ńłəń Lands shall be filed with the Lands Manager and provided that all prescribed registration fees are paid, the Lands Manager shall forward the instrument to the First Nation Land Register for registration.

21.2 Notwithstanding acceptance for filing of an instrument provided for in section 21.1, the Lands Manager shall not be responsible or liable for ensuring that an instrument which affects, or purports to affect, q̣'wa:ńłəń Lands:

- (a) is validly made;
- (b) complies with this Land Code; or
- (c) will be accepted for registration at the First Nation Land Register.

21.3 Except as against the person making it, an instrument purporting to create, grant, assign, transfer, dispose of or otherwise deal with a Permit or Interest in q̣'wa:ńłəń Lands after this Land Code takes effect does not operate to pass an Interest in q̣'wa:ńłəń Lands or convey a right to use or occupy q̣'wa:ńłəń Lands unless such instrument is registered in the First Nation Land Register.

22. Natural Resources

22.1 Subject to applicable law, all Natural Resources in, on or under and forming part of q̣'wa:ńłəń Lands belong to q̣'wa:ńłəń and may not be used or removed unless such use or removal is authorized by a q̣'wa:ńłəń Land Law or a Permit granted by hiwa?q̣'w ?i? səyəń, or is incidental to the use and occupation of a residence on q̣'wa:ńłəń Lands, such as in the course of gardening or construction of an ancillary structure to a residential dwelling.

22.2 Before hiwa?q̣'w ?i? səyəń grants a Permit which has, as its primary purpose, the removal of Natural Resources from q̣'wa:ńłəń Lands, hiwa?q̣'w ?i? səyəń shall Consult with siyałəx'ə? and xixá'əmət et tə ńa təməx'w.

həłqəmińəń language references:

hiwa?q̣'w ?i? səyəń - Kwantlen Council

siyałəx'ə? - Kwantlen Elders Advisory Group

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22.3 hiwá?q̣'ẉ ʔi? səyem̄ shall not grant a Permit to remove Natural Resources from q̣'wa:ńłəń Lands subject to an Allotment unless the holder(s) of that Allotment has consented in writing to the proposed grant.

23. Allotment

23.1 Subject to section 23.2, hiwá?q̣'ẉ ʔi? səyem̄ may issue an Allotment but only to Members.

23.2 From and after the effective date of this Land Code, no Allotment may be issued until hiwá?q̣'ẉ ʔi? səyem̄ has enacted a q̣'wa:ńłəń Land Law setting out the policy, procedure and criteria for the granting of Allotments.

23.3 If a holder of an Allotment ceases to be a Member, hiwá?q̣'ẉ ʔi? səyem̄ shall by Resolution cancel that Allotment and the lands previously subject to that Allotment become Community Lands.

23.4 No Allotment includes the Natural Resources on, in, under or belonging to the land subject to the Allotment.

24. Grant of a Permit or Interest in Community Lands

24.1 Subject to this article 24, hiwá?q̣'ẉ ʔi? səyem̄ may, by Resolution, grant, assign, transfer, dispose of or otherwise deal with a Permit or Interest in Community Lands.

24.2 Where hiwá?q̣'ẉ ʔi? səyem̄ proposes to grant a Permit or Interest in Community Lands, hiwá?q̣'ẉ ʔi? səyem̄ shall not grant such Permit or Interest unless:

- (a) it has first Consulted with the siyaləx̣'we? and the xixátəm̄ət ct tə ńa təm̄əx̣'ẉ and a Majority of the members of siyaləx̣'we? and of the xixátəm̄ət ct tə ńa təm̄əx̣'ẉ approve the duration of, and the use(s) permitted under, the proposed grant;
- (b) an environmental assessment of the project subject to the proposed grant has been completed, if such assessment is required under applicable law, including a q̣'wa:ńłəń Land Law, the Individual Agreement or any other agreement to which q̣'wa:ńłəń is a party or is deemed advisable by hiwá?q̣'ẉ ʔi? səyem̄;
- (c) taking into consideration the results of any environmental assessment conducted pursuant to subsection (b) above, any feasible mitigation measures identified as necessary during such environment assessment, and any other relevant information, hiwá?q̣'ẉ ʔi? səyem̄ is satisfied that the project subject to the proposed grant is not likely to cause any significant adverse environmental effects or that any such effects are justifiable under the circumstances; and
- (d) except as provided for in section 24.3, if the proposed grant is for a term exceeding 20 years, calculated by including any renewal or extension period, hiwá?q̣'ẉ ʔi? səyem̄ has

həńqəmińəm̄ language references:

hiwá?q̣'ẉ ʔi? səyem̄ - Kwantlen Council

siyaləx̣'we? - Kwantlen Elders Advisory Group

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obtained the approval of Eligible Voters in a Referendum to the duration of and the use(s) permitted under the proposed grant.

24.3 hiw'a?q̣'ẉ' ?i? səyəm̄ may grant a right of way or Permit in Community Lands for the purposes of distribution of telecommunication, water, electricity, gas, sewer or other like utility services for any length of term without first obtaining the approval of Eligible Voters pursuant to section 24.2 provided that the works authorized under such proposed right of way or Permit are required primarily to serve q̣'w'a:n̄łəñ Lands and the occupants thereon.

25. Grant of a Permit or Interest in q̣'w'a:n̄łəñ Lands Subject to an Allotment

25.1 Subject to this article 25, a holder of an Allotment may assign or transfer his or her right to hold that Allotment, grant a mortgage of his or her interest in that Allotment or grant, assign, transfer, dispose of or otherwise deal with a Permit or Interest in the lands subject to that Allotment.

25.2 A holder of an Allotment may only assign or transfer his or her right to hold that Allotment to a Member or q̣'w'a:n̄łəñ. Upon the assignment or transfer by a Member to q̣'w'a:n̄łəñ of his or her right to hold an Allotment, the lands previously subject to that Allotment become Community Lands.

25.3 A holder of an Allotment may only grant a mortgage of his or her Allotment to a Member or q̣'w'a:n̄łəñ.

25.4 A holder of an Allotment may not grant a Permit or Interest in the lands subject to that Allotment without the prior written consent of hiw'a?q̣'ẉ' ?i? səyəm̄.

25.5 hiw'a?q̣'ẉ' ?i? səyəm̄ shall provide its written consent required pursuant to section 25.4 provided it is satisfied that:

(a) the holder of the Allotment has Consulted with the siyaləx̣'ẉ'e? and the xixá'təm̄ət ct tə ña təm̄əx̣'ẉ' and a Majority of the members of siyaləx̣'ẉ'e? and of the xixá'təm̄ət ct tə ña təm̄əx̣'ẉ' approve the duration of, and the use(s) permitted under, the proposed grant;

(b) an environmental assessment of the project subject to the proposed grant has been completed, if such assessment is required under applicable law, including a q̣'w'a:n̄łəñ Land Law, the Individual Agreement or any other agreement to which q̣'w'a:n̄łəñ is a party or is deemed advisable by hiw'a?q̣'ẉ' ?i? səyəm̄;

(c) taking into consideration the results of any environmental assessment conducted pursuant to subsection (b) above and any mitigation measures identified as necessary during such environment assessment, hiw'a?q̣'ẉ' ?i? səyəm̄ is satisfied that the project subject to the proposed grant is unlikely to cause any significant adverse environmental effects or that any such effects are justifiable under the circumstances; and

həb̄q̄əmiñəm̄ language references:

hiw'a?q̣'ẉ' ?i? səyəm̄ - Kwantlen Council

siyaləx̣'ẉ'e? - Kwantlen Elders Advisory Group

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(d) except as provided for in section 25.7, if the proposed grant is for a term exceeding 20 years, calculated by including any renewal or extension period, the holder of the Allotment has obtained the approval of Eligible Voters in a Referendum to the duration of, and the use(s) permitted under, the proposed grant.

25.6 The written consent of hiwá?qʷ ʔiʔ səyem̓ given pursuant to section 25.5 shall not be deemed to be a representation and warranty from hiwá?qʷ ʔiʔ səyem̓ that the proposed grant for which the consent is given is in compliance with all applicable law.

25.7 A holder of an Allotment may grant a right of way or Permit in and to the lands subject to that Allotment for telecommunication, water, electricity, gas, sewer or other like purposes and purposes ancillary thereto for any length of term without first obtaining the approval of Eligible Voters provided for in subsection 25.5(d) provided that the works authorized under such proposed right of way or Permit are required primarily to serve q̣ʷa:ḥłəḥ Lands and the occupants thereon.

25.8 The Lands Manager shall hold a Referendum required pursuant to subsection 25.5(d) provided that a holder of an Allotment:

- (a) submits a written request to the Lands Manager to hold the Referendum;
- (b) provides satisfactory evidence to the Lands Manager that subsections 25.5(a), 25.5(b) and 25.5(c) have been satisfied; and
- (c) pays such reasonable fees as may be prescribed to defray the costs of the Referendum.

26. Extension of the Application of Subsection 89(1.1) of the *Indian Act*

The application of subsection 89(1.1) of the *Indian Act* is extended to all leasehold interests and leases in q̣ʷa:ḥłəḥ Lands.

27. Transfer of Interests and Permits

A holder of a Permit or Interest in q̣ʷa:ḥłəḥ Lands may grant, assign, transfer, dispose of or otherwise deal with his or her interest or right in such Interest or Permit to any person, subject to the restrictions and in accordance with the requirements of this Part 3.

28. Grant of Sub Interests

A holder of a Permit or Interest in q̣ʷa:ḥłəḥ Lands may grant a sub interest or licence in respect of that Interest or Permit, subject to the terms and conditions of that Interest or Permit, and in accordance with the requirements of this Part 3.

hə́hqə́mihə́m language references:

hiwá?qʷ ʔiʔ səyem̓ – Kwantlen Council

siyałəxʷeʔ - Kwantlen Elders Advisory Group

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29. Transfer on Death

29.1 A Member who claims to be entitled to an Allotment by testamentary disposition or succession pursuant to the *Indian Act* (the "Claimant") is not entitled to that Allotment until:

- (a) the Claimant has filed with the Lands Manager for registration an instrument duly executed by the personal representative of the estate of the deceased Member who held that Allotment transferring that Allotment to the Claimant; and
- (b) the instrument referred to in subsection (a) above is registered in the First Nation Land Register.

29.2 A purchaser of an Allotment pursuant to subsection 50(2) of the *Indian Act* (the "Purchaser") is not entitled to that Allotment until:

- (a) the Purchaser has filed with the Lands Manager for registration an instrument duly executed by a person authorized under the *Indian Act* to execute a transfer of that Allotment, transferring that Allotment to the Purchaser; and
- (b) the instrument referred to in subsection 29.1(a) above is registered in the First Nation Land Register.

For greater certainty, only a Member or hiẉa?q̣ẉ ?i? ṣəyeṃ on behalf of q̣ẉa:ñłəñ is eligible to be a Purchaser.

30. Treatment of Interests in q̣ẉa:ñłəñ Lands Upon Marriage Breakdown

30.1 hiẉa?q̣ẉ ?i? ṣəyeṃ shall enact a q̣ẉa:ñłəñ Land Law within twelve (12) months of the effective date of this Land Code setting out rules and procedures applicable to the use, occupation and possession of q̣ẉa:ñłəñ Lands and the division of Interests or rights in q̣ẉa:ñłəñ Lands on the breakdown of a marriage involving at least one Member.

30.2 hiẉa?q̣ẉ ?i? ṣəyeṃ shall Consult with xixáłəmət ct tə ña təməx̣ẉ and siyaləx̣ẉe? in developing the q̣ẉa:ñłəñ Land Law referred to in section 30.1.

30.3 The q̣ẉa:ñłəñ Land Law referred to in section 30.1 shall not discriminate on the basis of sex but may distinguish as between Members and non-Members for the purpose of determining what type of Interests or rights in q̣ẉa:ñłəñ Lands may be held by a person.

31. Exchange of Community Lands

31.1 Subject to federal expropriation, no part of q̣ẉa:ñłəñ Lands shall be alienated so as to remove its status as q̣ẉa:ñłəñ Lands except for an exchange of Community Lands for other lands in circumstances where:

həñq̣əmiñeṃ language references:

hiẉa?q̣ẉ ?i? ṣəyeṃ – Kwantlen Council

siyaləx̣ẉe? - Kwantlen Elders Advisory Group

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- (a) as compensation for the Community Lands, q̓ʷa:ḥłəḥ receives land that Canada has agreed in writing will be set apart as a reserve for the use and benefit of q̓ʷa:ḥłəḥ (the "Replacement Lands");
- (b) Canada consents in writing to the manner and form of the land exchange;
- (c) hiwá?qʷ ʔi? səyem̓ has Consulted xixátəm̓ət ct tə ńa təm̓əxʷ and siyal'əxʷeʔ in respect of the land exchange;
- (d) the land exchange is approved by Eligible Voters in a Referendum;
- (e) prior to the holding of the Referendum referred to in subsection (d) above, the following information has been provided to the Eligible Voters:
 - (i) a description of the Community Lands to be exchanged, including the appraised value of such lands;
 - (ii) a description of the Replacement Lands, including the size and appraised value of such lands;
 - (iii) a description of any other compensation to be received in the land exchange;
 - (iv) a copy or summary of the land exchange agreement, if available; and
 - (v) confirmation of Canada's agreement and consent required pursuant to subsections 31.1(a) and 31.1(b).

31.2 Nothing herein shall restrict q̓ʷa:ḥłəḥ from receiving other compensation in a land exchange, such as money or one or more other parcels of land, in addition to the Replacement Lands. Such other parcels of land may be held in fee simple or some other manner by or on behalf of q̓ʷa:ḥłəḥ or by a company or partnership owned by q̓ʷa:ḥłəḥ.

31.3 A copy of each instrument transferring title to Community Lands pursuant to a land exchange shall be registered in the First Nation Land Register.

31.4 As soon as the Replacement Lands are set apart as a reserve for the use and benefit of q̓ʷa:ḥłəḥ and the Individual Agreement has been amended to include the Replacement Lands as "Kwantlen First Nation Land", as this term is used in the Individual Agreement, and the Community Lands as Excluded Land, then all references to q̓ʷa:ḥłəḥ Lands in this Land Code will be deemed to exclude the Community Lands subject to the land exchange and include the Replacement Lands received. Any consequential amendments to the Land Code arising from the land exchange may be made pursuant to a Resolution, without the need for approval of the Eligible Voters in a Referendum pursuant to section 69.1.

həḥqəm̓ihəm̓ language references:

hiwá?qʷ ʔi? səyem̓ - Kwantlen Council

siyal'əxʷeʔ - Kwantlen Elders Advisory Group

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32. Expropriation of Permits or Interests in q̣'w'a:n̄łəñ Lands by q̣'w'a:n̄łəñ

32.1 Except as provided in sections 32.2 and 32.3, q̣'w'a:n̄łəñ may expropriate any Permit or Interest in q̣'w'a:n̄łəñ Lands that is, in the opinion of hiw'a?q̣'w' ?i? səyəñ, necessary for community works or other community purposes.

32.2 An Interest or right in q̣'w'a:n̄łəñ Lands obtained under section 35 of the *Indian Act* or held by Canada is not subject to expropriation by q̣'w'a:n̄łəñ under this Land Code.

32.3 A Permit or Interest in q̣'w'a:n̄łəñ Lands in which q̣'w'a:n̄łəñ has agreed in writing that such Permit or Interest is exempt from expropriation by q̣'w'a:n̄łəñ may not be expropriated by q̣'w'a:n̄łəñ under this Land Code.

32.4 No expropriation pursuant to section 32.1 may take place until the following conditions have been met:

- (a) hiw'a?q̣'w' ?i? səyəñ has enacted a q̣'w'a:n̄łəñ Land Law setting out:
 - (i) the procedure governing the expropriation process, including provisions for reasonable notice and service of such notice on a Holder;
 - (ii) the method of determining fair compensation to be paid to a Holder, which compensation shall be based on the heads of compensation set out in the *Expropriation Act*; and
 - (iii) the procedure for resolving disputes between q̣'w'a:n̄łəñ and a Holder in respect of the right of q̣'w'a:n̄łəñ to expropriate or the amount of compensation payable by q̣'w'a:n̄łəñ to a Holder.
- (b) Prior to each expropriation:
 - (i) hiw'a?q̣'w' ?i? səyəñ has passed a Resolution declaring that, in its reasonable opinion, the most limited interest or right is being expropriated, or being considered for expropriation, for the community work or other community purpose for which the proposed expropriation is required;
 - (ii) q̣'w'a:n̄łəñ has attempted in good faith to negotiate an agreement with the Holder for the transfer of the Permit or Interest that is being considered for expropriation but has failed to reach such an agreement;
 - (iii) q̣'w'a:n̄łəñ has prepared a written report setting out the community work or other community purpose for which the proposed expropriation is required and the necessity for the proposed expropriation and has mailed or delivered such written report to all Eligible Voters and posted such report for at least 30 days at the

həñq̣'amihəñ language references:

hiw'a?q̣'w' ?i? səyəñ – Kwantlen Council

siyałəx'w'e? - Kwantlen Elders Advisory Group

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administrative offices of q̣ʷa:ńłəń and at another location other than the administrative offices of q̣ʷa:ńłəń or electronically on the website of q̣ʷa:ńłəń; and

- (iv) if the proposed expropriation involves q̣ʷa:ńłəń Lands subject to an Allotment, the proposed expropriation thereof has been approved by Eligible Voters in a Referendum.

33. Surveys

Except as authorized by law, no person shall cause surveys to be made of q̣ʷa:ńłəń Lands without the consent of the Lands Manager.

34. Dispute Resolution

- 34.1 Except as otherwise provided in this Part 3, disputes in relation to Permits or Interests in q̣ʷa:ńłəń Lands shall be determined by a court of competent jurisdiction, unless the parties to the dispute agree to resolve the dispute through mediation or arbitration.

PART 4 - xixáʔəmət ct tə ńa təmexʷ (LANDS ADVISORY COMMITTEE)

35. Establishment of xixáʔəmət ct tə ńa təmexʷ (Lands Advisory Committee – caring for our land)

- 35.1 Within one (1) month of the effective date of this Land Code, hiwáʔqʷ ʔiʔ səyem̄ shall establish xixáʔəmət ct tə ńa təmexʷ.
- 35.2 hiwáʔqʷ ʔiʔ səyem̄ shall allocate funds in the Budget each year for xixáʔəmət ct tə ńa təmexʷ to carry out its mandates provided for in section 36.1.

36. Mandates of xixáʔəmət ct tə ńa təmexʷ

- 36.1 xixáʔəmət ct tə ńa təmexʷ shall:
 - (a) provide advice and make recommendations on those matters on which it is Consulted under the Land Code and render a decision on those matters on which it is Consulted pursuant to subsection 24.2(a) or 25.5(a);
 - (b) assist in the flow of information on issues pertaining to q̣ʷa:ńłəń Lands between hiwáʔqʷ ʔiʔ səyem̄ and the Lands Manager, on the one hand, and Members;
 - (c) canvass the views of Members on issues related to the administration and management of q̣ʷa:ńłəń Lands as it deems appropriate or as requested by hiwáʔqʷ ʔiʔ səyem̄ or the

həińqəmihəm language references:

hiwáʔqʷ ʔiʔ səyem̄ – Kwantlen Council

siyáʔexʷeʔ – Kwantlen Elders Advisory Group

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Lands Manager; and

- (d) provide such assistance as may be required in the holding of General Members Meetings and Referendum votes under this Land Code.

36.2 xixáťəmət ct tə ña təməx^w may establish rules and policies in respect of its conduct and operations for the purpose of carrying out its duties and responsibilities provided they are not inconsistent with this Land Code.

37. Composition and Eligibility for Appointment

37.1 xixáťəmət ct tə ña təməx^w shall be comprised of a minimum of five (5) Eligible Voters appointed pursuant to sections 37.2 and 37.3.

37.2 hiwá?q^w ?i? səyəm shall appoint one (1) member from hiwá?q^w ?i? səyəm to be a part of xixáťəmət ct tə ña təməx^w.

37.3 In addition to the person appointed pursuant to section 37.2, hiwá?q^w ?i? səyəm shall appoint a minimum of four (4) additional Eligible Voters to be on the xixáťəmət ct tə ña təməx^w.

37.4 hiwá?q^w ?i? səyəm shall endeavour to ensure that xixáťəmət ct tə ña təməx^w is representative of the entire q̣'wa:ñłəñ membership, bearing in mind that q̣'wa:ñłəñ elders are already entitled to be a part of, and provide their input through, siyal'əx^we?. To that end, hiwá?q^w ?i? səyəm shall, as part of the appointment process, invite Eligible Voters to apply for an appointment on the xixáťəmət ct tə ña təməx^w and advise Eligible Voters of the criteria to be considered by hiwá?q^w ?i? səyəm in making such an appointment.

38. Term of Office

38.1 The one (1) member of xixáťəmət ct tə ña təməx^w who is a member of hiwá?q^w ?i? səyəm shall serve on xixáťəmət ct tə ña təməx^w for so long as he or she remains a member of hiwá?q^w ?i? səyəm, unless hiwá?q^w ?i? səyəm removes that person and appoints a replacement in his or her place.

38.2 Except as provided for in section 38.3, members of xixáťəmət ct tə ña təməx^w appointed pursuant to section 37.3 shall serve for a term of four (4) years unless re-appointed for a further term.

38.3 For the first members of xixáťəmət ct tə ña təməx^w appointed pursuant to section 37.3, hiwá?q^w ?i? səyəm shall appoint half of those members to serve for a term of two (2) years and the remainder to serve for a term of four (4) years.

38.4 Prior to the expiry of the term of a member on xixáťəmət ct tə ña təməx^w appointed pursuant to section 37.3, hiwá?q^w ?i? səyəm shall either re-appoint that member for a further term of four (4) years or appoint another person as a replacement for a term of four (4) years.

həñqəmiñəñ language references:

hiwá?q^w ?i? səyəm - Kwantlen Council

siyal'əx^we? - Kwantlen Elders Advisory Group

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- 38.5 If, on the expiry date of the term of a member of the xixáʔəmət ct tə ña təməxʷ appointed pursuant to section 37.3, no re-appointment or replacement appointment has been made as contemplated by section 38.4, then that member shall be deemed to have been re-appointed as a member of the xixáʔəmət ct tə ña təməxʷ for a further term of four (4) years.
- 38.6 A member on the xixáʔəmət ct tə ña təməxʷ ceases to be a member of xixáʔəmət ct tə ña təməxʷ when:
 - (a) the term of that member expires in accordance with this article 38;
 - (b) the member resigns or dies;
 - (c) the member ceases to be an Eligible Voter; or
 - (d) the member is removed in accordance with section 38.7.
- 38.7 On the written recommendation from a Majority of the members of the xixáʔəmət ct tə ña təməxʷ with reasons provided therefor, hiwáʔqʷ ʔiʔ səyəm̓ may remove a member from xixáʔəmət ct tə ña təməxʷ. Prior to the intended removal of a member on the xixáʔəmət ct tə ña təməxʷ, notice must be given to that member setting out the reasons for the intended removal, and the said member must be given an opportunity to meet with the remaining members of the xixáʔəmət ct tə ña təməxʷ and hiwáʔqʷ ʔiʔ səyəm̓ assembled together and respond to the reasons given.
- 38.8 A vacancy that occurs among the members of xixáʔəmət ct tə ña təməxʷ may be filled by another person appointed by hiwáʔqʷ ʔiʔ səyəm̓.
- 38.9 A person appointed as a member of xixáʔəmət ct tə ña təməxʷ to fill a vacancy pursuant to section 38.8 ceases to be a member of the xixáʔəmət ct tə ña təməxʷ on:
 - (a) the end of the term of the member whose departure created the vacancy; or
 - (b) the date on which that person ceases to hold office pursuant to section 38.6,
 whichever is earlier.
- 39. **Proceedings of xixáʔəmət ct tə ña təməxʷ**
- 39.1 Members of xixáʔəmət ct tə ña təməxʷ shall meet together at least four (4) times in each calendar year for the conduct of business, and adjourn and otherwise regulate their meetings as they think fit. Meetings held at regular intervals may be held at the place, at the time and on such notice, if any, as the members of xixáʔəmət ct tə ña təməxʷ may determine from time to time, and hiwáʔqʷ ʔiʔ səyəm̓ shall be notified accordingly.

həñqəmiñəm̓ language references:

hiwáʔqʷ ʔiʔ səyəm̓ – Kwantlen Council

siyaləxʷeʔ - Kwantlen Elders Advisory Group

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- 39.2 The following person shall preside as chair at a meeting of the xixá'təmət ct tə ńa təməx^w:
- (a) the member of hiwa?q^w ?i? səyəm̄ who is on the xixá'təmət ct tə ńa təməx^w;
 - (b) if the person referred to in subsection 39.2(a) is not present at the meeting within 15 minutes after the time set for holding the meeting, then any other member of the xixá'təmət ct tə ńa təməx^w chosen by the members who are present.
- 39.3 Either hiwa?q^w ?i? səyəm̄ or a Majority of the members of the xixá'təmət ct tə ńa təməx^w may call a meeting of xixá'təmət ct tə ńa təməx^w.
- 39.4 Other than for meetings held at regular intervals as determined by the members of xixá'təmət ct tə ńa təməx^w pursuant to section 39.1, reasonable notice of each meeting of xixá'təmət ct tə ńa təməx^w, specifying the place, day and time of that meeting must be given to each member of xixá'təmət ct tə ńa təməx^w, unless such notice is waived by the person entitled to receive notice.
- 39.5 Except as provided for in section 39.7, the quorum for a meeting of xixá'təmət ct tə ńa təməx^w is a Majority of its members.
- 39.6 If, within twenty (20) minutes from the time set for the holding of a meeting of xixá'təmət ct tə ńa təməx^w, a quorum is not present, the meeting may proceed except that no resolutions of the xixá'təmət ct tə ńa təməx^w may be passed at such meeting. Alternatively, the members of the xixá'təmət ct tə ńa təməx^w who are present may adjourn the meeting to a time and date within two weeks thereof.
- 39.7 If, at a meeting adjourned pursuant to section 39.6, a quorum is not present within twenty (20) minutes from the time set for the holding of the meeting, the person or persons present constitute a quorum.

PART 5 - siyaləx^we? (ELDER'S ADVISORY GROUP)

40. Continuation of siyaləx^we?

- 40.1 siyaləx^we? will continue to provide its input to, and share its wisdom with, hiwa?q^w ?i? səyəm̄ on issues of importance to q̣'wa:n̄l̄əh̄, including issues pertaining to q̣'wa:n̄l̄əh̄ Lands.
- 40.2 In addition to section 40.1, siyaləx^we? shall render a decision on those matters on which it is Consulted pursuant to subsection 24.2(a) or 25.5(a).
- 40.3 As soon as reasonably practicable after the effective date of this Land Code, hiwa?q^w ?i? səyəm̄ shall, in consultation with siyaləx^we?, codify the procedures, rules and policies applicable to siyaləx^we? and adopt such code by Resolution.

həh̄qəmih̄əm̄ language references:

hiwa?q^w ?i? səyəm̄ – Kwantlen Council

siyaləx^we? - Kwantlen Elders Advisory Group

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40.4 The code referred to in section 40.3 shall include a description of:

- (a) the mandates of siyaləxʷeʔ;
- (b) the eligibility requirements for membership in siyaləxʷeʔ; and
- (c) the rules and procedures governing the proceedings of siyaləxʷeʔ.

PART 6 - FINANCIAL MANAGEMENT AND ACCOUNTABILITY

41. Application

This Part 6 applies only to financial matters relating to the management and administration of q̣ʷa:ńłəń Lands.

42. Establishment of Bank Accounts

hiwáʔqʷ ʔiʔ səyem̓ shall maintain one or more accounts at one or more Financial Institutions and shall deposit with such Financial Institution(s) all monies received by q̣ʷa:ńłəń from the management and administration of q̣ʷa:ńłəń Lands, including but not limited to the following:

- (a) transfer payments provided by Canada for the management and administration of q̣ʷa:ńłəń Lands;
- (b) capital and revenue monies of q̣ʷa:ńłəń transferred by Canada;
- (c) monies received for the grant, assignment, transfer, disposition or other dealings of a Permit or Interest in q̣ʷa:ńłəń Lands; and
- (d) all fees, fines, charges and levies collected under q̣ʷa:ńłəń Land Laws.

43. Authorizing Officers

- 43.1 Only persons authorized by hiwáʔqʷ ʔiʔ səyem̓ may authorize payments on behalf of q̣ʷa:ńłəń.
- 43.2 All cheques to be issued on behalf of q̣ʷa:ńłəń or transfers drawn on the accounts of q̣ʷa:ńłəń shall be signed by at least two (2) people who have been authorized to do so pursuant to a Resolution.

44. Budget

- 44.1 The fiscal year of q̣ʷa:ńłəń begins April 1 of each year and ends on March 31 of the following year.

həńq̣əmińem̓ language references:

hiwáʔqʷ ʔiʔ səyem̓ – Kwantlen Council

siyaləxʷeʔ - Kwantlen Elders Advisory Group

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44.2 hiwa?q̣'w ńi? səyem̄ shall, prior to the beginning of each fiscal year, adopt a Budget for the fiscal year and may adopt one or more Supplementary Budgets during the fiscal year.

44.3 Within a reasonable period of time after a Budget or a Supplementary Budget has been adopted by hiwa?q̣'w ńi? səyem̄, the Director of Finance and Administration shall:

- (a) provide a copy of that Budget or Supplementary Budget, as the case may be, to the xixá'təm̄ət ct tə ńa təm̄əx̄'w and the siya'əx̄'we?; and
- (b) make a copy of that Budget or Supplementary Budget, as the case may be, available at the administrative offices of q̣'wa:ńłəń for inspection by Members during regular office hours.

44.4 If hiwa?q̣'w ńi? səyem̄ fails to adopt a Budget for a fiscal year prior to the beginning of that fiscal year, the Budget of the previous fiscal year, as amended by any Supplementary Budgets, shall apply until a new Budget is adopted.

45. Financial Records and Statements

45.1 q̣'wa:ńłəń shall keep and maintain financial records related to the management and administration of q̣'wa:ńłəń Lands in accordance with Canadian generally accepted accounting principles and public sector auditing and accounting standards.

45.2 Within 90 days after the end of each fiscal year, the Director of Finance and Administration shall cause to be prepared financial statements 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 Budget and any Supplementary Budgets for that fiscal year; and
- (c) any other information necessary for a fair presentation of the financial position of q̣'wa:ńłəń.

45.3 The accounting, auditing and reporting requirements of this Land Code may be prepared together and consolidated with other accounts, audits and reports of q̣'wa:ńłəń.

46. Audit

46.1 hiwa?q̣'w ńi? səyem̄ shall appoint a duly accredited auditor to audit, at least once every fiscal year, the financial statements and records of q̣'wa:ńłəń kept and maintained under this Part 6, and hiwa?q̣'w ńi? səyem̄ shall determine the auditor's remuneration.

46.2 hiwa?q̣'w ńi? səyem̄ shall request the auditor to prepare and submit to hiwa?q̣'w ńi? səyem̄ a report on the financial statements of q̣'wa:ńłəń stating whether, in the opinion of the auditor, the

həńqəmihəń language references:

hiwa?q̣'w ńi? səyem̄ - Kwantlen Council

siya'əx̄'we? - Kwantlen Elders Advisory Group

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financial statements present fairly the financial position of q̣ʷa:ṅłəṅ in accordance with Canadian generally accepted accounting principles and public sector auditing and accounting standards, applied on a basis consistent with that applied in the previous fiscal year, within 120 days after the end of the fiscal year of q̣ʷa:ṅłəṅ.

- 46.3 In carrying out his or her duties and responsibilities, the auditor shall have the right to access the records of q̣ʷa:ṅłəṅ at all reasonable times.
- 46.4 Within ninety (90) days after hiwa?qʷ ʷi? səyəṅ has received the report from the auditor pursuant to section 46.2, hiwa?qʷ ʷi? səyəṅ shall hold a General Members Meeting for the purpose of presenting the auditor's report to the Members and reporting on financial issues pertaining to the administration and management of q̣ʷa:ṅłəṅ Lands.
- 46.5 The General Members Meeting referred to in section 46.4 shall be attended by the auditor, the Director of Finance and Administration, the Lands Manager and a Majority of the members of hiwa?qʷ ʷi? səyəṅ.

PART 7 - CONFLICT OF INTEREST

47. Application

The rules in this Part 7 apply to the following persons:

- (a) a member of hiwa?qʷ ʷi? səyəṅ who is dealing with any matter before hiwa?qʷ ʷi? səyəṅ pertaining to the management or administration of q̣ʷa:ṅłəṅ Lands;
- (b) a member of the xixátəm̄ət ct tə ṅa təm̄əxʷ;
- (c) a member of siyałəxʷe?; and
- (d) an employee or contractor of q̣ʷa:ṅłəṅ carrying out duties in respect of the management and administration of q̣ʷa:ṅłəṅ Lands.

48. Definitions

For the purposes of this Part 7, the following terms shall have the following meanings, respectively:

- (a) "Child" of a person includes a child to whom that person acts as a parent.
- (b) "Common Law Spouse" means a person who has lived and cohabited with another person in a marriage-like relationship for a period of at least six (6) months immediately before the relevant date.

həṅq̣əmiṅəṅ language references:

hiwa?qʷ ʷi? səyəṅ - Kwantlen Council

siyałəxʷe? - Kwantlen Elders Advisory Group

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- (c) **"Immediate Family"** means, in respect of a person:
 - (i) that person's Spouse, grandparent, parent, step-parent, sibling, Child and grandchild;
 - (ii) a sibling of that person's parent;
 - (iii) the Spouse of that person's grandparent, parent, sibling, Child and grandchild;
 - (iv) a sibling of the parent of that person's Spouse; and
 - (v) any relative with whom that person ordinarily resides.
- (d) **"Separated Spouse"** means a person who has, immediately prior to the relevant date, lived separate and apart for more than one year, with the intention of living separate and apart, from the person to whom that person is legally married.
- (e) **"Spouse"** means:
 - (i) a person who is legally married to another person but does not include a Separated Spouse; and
 - (ii) a Common Law Spouse.

49. Conflict of Interest

- 49.1 A person to whom this Part 7 applies has a conflict of interest when such person is being asked to deliberate or decide on a matter where there is the opportunity to further his or her private interest or to further or hinder the private interest of a member of his or her Immediate Family.
- 49.2 A person to whom this Part 7 applies has an apparent conflict of interest if there is a reasonable perception, which a reasonably well informed person could properly have, that such person's ability to deliberate or decide on the matter would likely be affected by his or her private interest or the private interest of a member of his or her Immediate Family.
- 49.3 Private interest does not include an interest that a person or a member of his or her Immediate Family has in a matter by virtue of the fact that such person or his or her Immediate Family member is a Member.

50. Conflict of Interest Prohibition

Subject to article 53, a person to whom this Part 7 applies must not exercise his or her power or carry out his or her responsibility provided for in this Land Code in respect of any matter in which such person has a conflict of interest or an apparent conflict of interest.

həñqamihəñ language references:

hiwá?q̣'ẉ ?i? səyeṃ – Kwantlen Council

siyafəx̣'we? - Kwantlen Elders Advisory Group

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51. Procedure on Conflict of Interest

51.1 A person to whom this Part 7 applies who has reasonable grounds to believe that he or she has a conflict of interest must, as soon as reasonably practicable, disclose in writing the general nature of the conflict of interest:

- (a) to hiẉaʔq̣ʷ ʔiʔ səyeṃ, if that person is a member of hiẉaʔq̣ʷ ʔiʔ səyeṃ;
- (b) to hiẉaʔq̣ʷ ʔiʔ səyeṃ and xixáʔəṃət ct ṭə ńa ṭəṃəx̣ʷ, if that person is a member of xixáʔəṃət ct ṭə ńa ṭəṃəx̣ʷ;
- (c) to hiẉaʔq̣ʷ ʔiʔ səyeṃ and siyaʔəx̣ʷeʔ, if that person is a member of siyaʔəx̣ʷeʔ;
- (d) to that person's supervisor, if that person is an employee or contractor of q̣ʷa:ṇḷəṇ.

51.2 If the disclosure required pursuant to section 51.1 occurs at a meeting, the person making the disclosure:

- (a) must physically withdraw from that meeting while the matter is under consideration;
- (b) must not vote on, or participate in, the consideration of the matter;
- (c) may return to that meeting once the consideration and voting on the matter is finished; and
- (d) may be counted in the quorum at that meeting whether or not he or she votes on any of the matters considered at that meeting.

51.3 If a person has complied with section 51.2, the person taking minutes of the meeting must record:

- (a) the disclosure;
- (b) the general nature of the conflict of interest disclosed; and
- (c) the withdrawal of the person from the meeting and the return, if applicable, of the person to the meeting.

51.4 Subject to section 51.5, a person to which this Part applies is liable to account to q̣ʷa:ṇḷəṇ for any profit that accrues to that person as a result that person voting on, or participating in the consideration of, a matter in which that person has a conflict of interest.

51.5 A person to which this Part applies is not liable to account for and may retain the profit referred to in section 51.4 provided that the matter in which that person has a conflict of interest is approved after that person has complied with section 51.1 and subsections 51.2(a) and 51.2(b).

həḥq̣əmịṇəḥ language references:

hiẉaʔq̣ʷ ʔiʔ səyeṃ – Kwantlen Council

siyaʔəx̣ʷeʔ – Kwantlen Elders Advisory Group

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52. Conflict of Interest in Doubt

52.1 If a person to which this Part applies is in doubt whether he or she has a conflict of interest, he or she may, in writing, request a decision on whether he or she is in compliance with this Part:

- (a) from hiw̄a?q̣'w̄ ?i? səyem̄, if that person is a member of hiw̄a?q̣'w̄ ?i? səyem̄ and the matter in question is before hiw̄a?q̣'w̄ ?i? səyem̄;
- (b) from xixáʔəm̄ət ct tə ńa təm̄əx̄'w̄, if that person is a member of xixáʔəm̄ət ct tə ńa təm̄əx̄'w̄ and the matter in question is before xixáʔəm̄ət ct tə ńa təm̄əx̄'w̄;
- (c) from siyal̄əx̄'w̄eʔ, if that person is a member of siyal̄əx̄'w̄eʔ and the matter in question is before siyal̄əx̄'w̄eʔ; or
- (d) from that person's supervisor, if that person is being asked to decide or deliberate on the matter in question in his or her capacity as an employee or contractor of q̣'w'a:n̄l̄əh̄.

52.2 If a person to which this Part applies has reasonable grounds to believe that another person to which this Part applies has a conflict of interest (the "Subject"), such person may, in writing, request a decision on whether the Subject is in compliance with this Part:

- (a) from hiw̄a?q̣'w̄ ?i? səyem̄, if the Subject is a member of hiw̄a?q̣'w̄ ?i? səyem̄ and the matter in question is before hiw̄a?q̣'w̄ ?i? səyem̄;
- (b) from xixáʔəm̄ət ct tə ńa təm̄əx̄'w̄, if the Subject is a member of xixáʔəm̄ət ct tə ńa təm̄əx̄'w̄ and the matter in question is before xixáʔəm̄ət ct tə ńa təm̄əx̄'w̄;
- (c) from siyal̄əx̄'w̄eʔ, if the Subject is a member of the siyal̄əx̄'w̄eʔ and the matter in question is before siyal̄əx̄'w̄eʔ; or
- (d) from the Subject's supervisor, if the Subject is being asked to decide or deliberate on the matter in question in his or her capacity as an employee or contractor of q̣'w'a:n̄l̄əh̄.

52.3 A decision of hiw̄a?q̣'w̄ ?i? səyem̄, xixáʔəm̄ət ct tə ńa təm̄əx̄'w̄, siyal̄əx̄'w̄eʔ or the Subject's supervisor, as the case may be, made pursuant to section 52.1 or 52.2 shall be final.

53. Failure to Establish Quorum due to Conflict

53.1 Where, as a result of a conflict of interest, a quorum of hiw̄a?q̣'w̄ ?i? səyem̄ cannot be established at the time that a matter is referred to hiw̄a?q̣'w̄ ?i? səyem̄ for decision, hiw̄a?q̣'w̄ ?i? səyem̄ may refer such matter for decision by Eligible Voters in a Referendum.

53.2 Where, as a result of a conflict of interest, a quorum of xixáʔəm̄ət ct tə ńa təm̄əx̄'w̄ cannot be established at the time that a matter is referred to xixáʔəm̄ət ct tə ńa təm̄əx̄'w̄ for consideration or decision, xixáʔəm̄ət ct tə ńa təm̄əx̄'w̄ shall refer such matter to hiw̄a?q̣'w̄ ?i? səyem̄ for

həh̄q̣əmīh̄əm̄ language references:

hiw̄a?q̣'w̄ ?i? səyem̄ – Kwantlen Council

siyal̄əx̄'w̄eʔ - Kwantlen Elders Advisory Group

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consideration or decision, as the case may be.

53.3 Where, as a result of a conflict of interest, a quorum of the siyałəxʷe? cannot be established at the time that a matter is referred to the siyałəxʷe? for consideration or decision, siyałəxʷe? shall refer such matter to hiwa?qʷ ʔi? səyəń for consideration or decision, as the case may be.

PART 8 - GENERAL MEMBERS MEETING

54. Application

This Part 8 applies to meetings of Members required to be held pursuant to this Land Code or to such other meetings of Members as hiwa?qʷ ʔi? səyəń determines are advisable to hold in relation to the management and administration of q̓ʷa:ńłəń Lands.

55. Purpose

55.1 The purpose of a General Members Meeting is for hiwa?qʷ ʔi? səyəń to provide information to Members and for Members to have an opportunity to comment on the subject matter for which the meeting was called.

55.2 No vote of the Members shall be conducted at a General Members Meeting.

56. Holding a General Members Meeting

56.1 Before a General Members Meeting may be held, the Lands Manager shall:

- (a) deliver or mail, either by post or electronically, a notice of General Members Meeting to all Eligible Voters at the last known physical or electronic address of each Eligible Voter;
- (b) post a notice of General Members Meeting at the administrative offices of q̓ʷa:ńłəń for at least fourteen (14) days prior to the date of the General Members Meeting; and
- (c) post a notice of General Members Meeting at a location other than the administrative offices of q̓ʷa:ńłəń or electronically on q̓ʷa:ńłəń's website for at least fourteen (14) days prior to the date of the General Members Meeting.

56.2 A notice of General Members Meeting shall provide the date, time, place and the agenda for the meeting.

heńqəmińəń language references:

hiwa?qʷ ʔi? səyəń – Kwantlen Council

siyałəxʷe? - Kwantlen Elders Advisory Group

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PART 9 - REFERENDUM

57. Application

This Part 9 applies only to a referendum required to be held by this Land Code or a referendum on a matter relating to the management and administration of q̣'wa:n̄l̄əñ Lands which hiwa?q̣'w̄ ?i? səyəm̄ considers it advisable to hold.

58. Majority Required for Approval in a Referendum

Any question put to a Referendum shall be approved if a Majority of the Eligible Voters who cast ballots in that Referendum vote "YES" to the question submitted at that Referendum.

59. Vote by Eligible Voters Only

Only Eligible Voters are entitled to vote in a Referendum.

60. Holding of Referendum

60.1 The Lands Manager shall hold a Referendum when so required by this Land Code or directed by hiwa?q̣'w̄ ?i? səyəm̄.

60.2 At least forty-four (44) days prior to the day on which a Referendum is to be held, the Lands Manager shall, in consultation with hiwa?q̣'w̄ ?i? səyəm̄:

- (a) set the day on which the Referendum is to be held;
- (b) determine the question or questions to be asked in the Referendum; and
- (c) appoint a Referendum Officer to conduct the Referendum.

60.3 Within five (5) days of his or her appointment, the Referendum Officer shall appoint one or more persons to be a Deputy Referendum Officer to assist in the Referendum.

61. Voters' List

61.1 At least thirty-seven (37) days before the day on which a Referendum is to be held, the Membership Clerk shall provide the Referendum Officer with a voters' list which shall contain:

- (a) in alphabetical order, the names of all Eligible Voters who reside on q̣'wa:n̄l̄əñ Lands and the names of all Eligible Voters who do not reside on q̣'wa:n̄l̄əñ Lands;
- (b) the q̣'wa:n̄l̄əñ membership number of each Eligible Voter; and
- (c) the last known mailing addresses of all Eligible Voters.

həñq̣əmiñəñ language references:

hiwa?q̣'w̄ ?i? səyəm̄ - Kwantlen Council

siya'əx̄'e? - Kwantlen Elders Advisory Group

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- 61.2 On request by a Member, the Referendum Officer or Deputy Referendum Officer shall confirm whether the name of a person is on the voters' list.
- 61.3 The Referendum Officer shall revise the voters' list where it is demonstrated to his or her satisfaction that:
 - (a) the name of an Eligible Voter has been omitted from the list;
 - (b) the name of an Eligible Voter is incorrectly set out in the list;
 - (c) the name of a person not qualified to vote is included in the list; or
 - (d) the residency of an Eligible Voter is incorrectly set out in the list.

62. Notification of Referendum

- 62.1 At least seven (7) days prior to the day on which an information meeting for a Referendum is to be held and at least thirty (30) days prior to the day on which a Referendum is to be held, the Referendum Officer shall:
 - (a) post a notice of referendum containing the information provided for in section 62.2 and the names of all Eligible Voters in the administrative offices of q̣'w'a:ńłəń;
 - (b) mail or deliver to every Eligible Voter who does not reside on q̣'w'a:ńłəń Lands for whom an address is available:
 - (i) a notice of the Referendum;
 - (ii) a mail-in ballot, initialled on the back by the Referendum Officer;
 - (iii) an outer, postage-paid return envelope, pre-addressed to the Referendum Officer;
 - (iv) a second, inner envelope marked "Ballot" for insertion of the completed ballot;
 - (v) a Voter Declaration Form;
 - (vi) a letter of instruction regarding voting by mail-in ballot; and
 - (vii) any relevant information or documents pertaining to the question or questions to be asked in the Referendum; and
 - (c) mail or deliver to every Eligible Voter who resides on q̣'w'a:ńłəń Lands for whom an address is available:

həńłəmihəń language references:

hivəq̣'w' ʔi? səyeḥ -- Kwantlen Council

siyafəx'we? - Kwantlen Elders Advisory Group

q̣'w'a:ńłəń - Kwantlen First Nation

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- (i) a notice of the Referendum; and
- (ii) any relevant information or documents pertaining to the question or questions to be asked in the Referendum.

62.2 A notice of referendum shall state:

- (a) the question or questions to be submitted to the Eligible Voters;
- (b) the day on which the Referendum will be held;
- (c) the location of each polling station and the hours that it will be open for voting;
- (d) that Eligible Voters may vote either in person at a polling station or by mail-in ballot;
- (e) the name and telephone number of the Referendum Officer; and
- (f) the date, time and location of the information meeting to be held pursuant to article 63.

62.3 At the request of an Eligible Voter who resides on q̣'w'a:n̄łəh̄ Lands, the Referendum Officer shall provide the Eligible Voter with the materials referred to in paragraphs 62.1(b)(ii) to 62.1(b)(vi).

62.4 The Referendum Officer shall indicate on the voters' list the Eligible Voter to whom he or she has mailed, delivered or otherwise provided a mail-in ballot and keep a record of the date on which, and the addresses to which, each mail-in ballot was mailed or delivered.

62.5 An Eligible Voter to whom a mail-in ballot was mailed, delivered or provided is not entitled to vote in person at a polling station other than in accordance with section 66.8.

63. Information Meeting

Before the day on which a Referendum is to be held, the Referendum Officer shall ensure that at least one information meeting is held to provide Eligible Voters with information regarding the subject matter of the Referendum.

64. Preparation for Referendum

The Referendum Officer shall:

- (a) prepare sufficient ballots, initialed on the back by the Referendum Officer, stating the question or questions to be submitted to the Eligible Voters;
- (b) procure a sufficient number of ballot boxes; and
- (c) before the poll is open on the day of a Referendum, cause to be delivered to the Deputy

həh̄q̣am̄ih̄em̄ language references:

hiwa?q̣'w̄ ?i? sōyer̄h̄ - Kwantlen Council

siyal'əx̄w̄e? - Kwantlen Elders Advisory Group

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Referendum Officer the ballots and a sufficient number of lead pencils for marking the ballots.

65. Voting by Mail-In Ballot

65.1 An Eligible Voter may vote by mail-in ballot by:

- (a) marking the ballot by placing a cross or check mark, clearly indicating the Eligible Voter's response to the question or questions stated on the ballot;
- (b) folding the ballot in a manner that conceals the question or questions and any marks, but exposes the initials of the Referendum Officer on the back;
- (c) placing the ballot in the inner envelope and sealing that envelope;
- (d) completing and signing the Voter Declaration Form in the presence of a witness who is at least 18 years of age;
- (e) placing the inner envelope and the completed, signed and witnessed Voter Declaration Form in the outer envelope; and
- (f) delivering or, subject to section 65.6, mailing the outer envelope to the Referendum Officer before the time at which the polls close on the day of a Referendum.

65.2 Where an Eligible Voter is physically unable to vote in the manner set out in section 65.1, the Eligible Voter may enlist the assistance of another person to mark the ballot and complete and sign the Voter Declaration Form in accordance with section 65.1.

65.3 A witness referred to in subsection 65.1(d) shall attest to:

- (a) the fact that the person completing and signing the Voter Declaration Form is the person whose name is set out in the form; or
- (b) where the Eligible Voter enlisted the assistance of another person under section 65.2, the fact that the Eligible Voter is the person whose name is set out in the form and that the ballot was marked according to the directions of the Eligible Voter.

65.4 An Eligible Voter who inadvertently spoils a mail-in ballot may obtain another ballot by returning the spoiled ballot to the Referendum Officer.

65.5 An Eligible Voter who loses a mail-in ballot may obtain another by delivering to the Referendum Officer a written affirmation that the Eligible Voter has lost the mail-in ballot, which affirmation must be signed by the Eligible Voter in the presence of the Referendum Officer, Deputy Referendum Officer, a justice of the peace, a notary public or a commissioner of oaths.

həñqəmitəñ language references:

hiwa?q̣ʷ ?i? səyəm -- Kwantlen Council

siyałəxʷe? - Kwantlen Elders Advisory Group

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65.6 Mail-in ballots that are not received by the Referendum Officer before the time at which the polls close on the day of a Referendum are void and shall not be counted as a vote cast.

66. Voting at Polling Stations

66.1 The Referendum Officer shall establish at least one polling station on q̣'w'a:n̄kəh̄ Lands.

66.2 The Referendum Officer or the Deputy Referendum Officer shall provide a compartment at each polling place where the elector can mark his or her ballot free from observation.

66.3 The Referendum Officer or the Deputy Referendum Officer shall, immediately before the opening of the poll on the day of a Referendum, open the ballot box to be used and call upon such persons who may be present to witness that it is empty and shall then lock and properly seal the box and place it in view of the reception of the ballots.

66.4 Polling stations shall be kept open from 9:00 a.m., local time, until 8:00 p.m., local time, on the day of a Referendum.

66.5 An Eligible Voter who is inside a polling station at the time that the polling station is to close is entitled to vote.

66.6 Subject to section 62.5, where a person attends at a polling station for the purpose of voting, the Referendum Officer or Deputy Referendum Officer shall, if the person's name is set out in the voters' list, provide that person with a ballot.

66.7 The Referendum Officer or the Deputy Referendum Officer shall place on the voters' list a mark opposite the name of every Eligible Voter receiving a ballot.

66.8 An Eligible Voter to whom a mail-in ballot was mailed, delivered or provided pursuant to this Part 9 may obtain a ballot and vote in person at a polling station if:

- (a) the Eligible Voter returns the mail-in ballot to the Referendum Officer or Deputy Referendum Officer; or
- (b) where the Eligible Voter has lost the mail-in ballot, the Eligible Voter provides the Referendum Officer or Deputy Referendum Officer with a written affirmation that the Eligible Voter has lost the mail-in ballot, which affirmation must be signed by the Eligible Voter in the presence of the Referendum Officer, Deputy Referendum Officer, a justice of the peace, a notary public or a commissioner of oaths.

66.9 The Referendum Officer or the Deputy Referendum Officer shall explain the mode of voting to an Eligible Voter when requested to do so by such Eligible Voter.

həh̄q̣amih̄əh̄ language references:

hiwaʔq̣' w̄iʔ səȳer̄h̄ – Kwantlen Council

siyaʔəx̄'eʔ - Kwantlen Elders Advisory Group

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66.10 Upon the request of an Eligible Voter who is:

- (a) not able to read; or
- (b) incapacitated by blindness or other physical cause,

the Referendum Officer or the Deputy Referendum Officer shall assist that Eligible Voter by marking his or her ballot in the manner directed by the Eligible Voter and shall place such ballot in the ballot box.

66.11 The Referendum Officer or the Deputy Referendum Officer shall make an entry in the voters' list opposite the name of the Eligible Voter that the ballot was marked by him or her at the request of the Eligible Voter and the reason therefore.

66.12 Except as provided in section 66.10, every Eligible Voter receiving a ballot shall:

- (a) proceed immediately to the compartment provided for marking the ballot;
- (b) mark the ballot by placing a cross or check mark, clearly indicating the Eligible Voter's response to the question or questions stated on the ballot;
- (c) fold the ballot in a manner that conceals the question or questions and any marks, but exposes the initials of the Referendum Officer on the back; and
- (d) forthwith deliver it to the Referendum Officer or the Deputy Referendum Officer for deposit in the ballot box.

66.13 An Eligible Voter who receives a soiled or improperly printed ballot, or inadvertently spoils his or her ballot in marking it, shall, upon returning the ballot to the Referendum Officer or the Deputy Referendum Officer, be entitled to another ballot.

66.14 An Eligible Voter who has received a ballot and:

- (a) leaves the compartment for marking ballots without delivering the same to the Referendum Officer or the Deputy Referendum Officer in the manner provided; or
- (b) refuses to vote,

shall forfeit his or her right to vote on the Referendum and the Referendum Officer or the Deputy Referendum Officer shall make an entry on the voters' list opposite the name of that Eligible Voter that he or she did not return the ballot or refused to vote, as the case may be.

66.15 The Referendum Officer or the Deputy Referendum Officer shall allow only one Eligible Voter in the compartment for marking the ballot at any one time.

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66.16 No person shall interfere, or attempt to interfere, with an Eligible Voter when marking his or her ballot or obtain, or attempt to obtain, at the polling place information as to how an Eligible Voter is about to vote or has voted.

66.17 The Referendum Officer and the Deputy Referendum Officer shall maintain peace and good order during the voting.

67. Counting of Votes

67.1 As soon as is practicable after the close of the polls on the day of a Referendum, the Referendum Officer shall, in the presence of the Deputy Referendum Officer and the Lands Manager or a member of hiwá?qʷ ʔi? səyəm̓, open each envelope containing a mail-in ballot that was received before the close of the polls on the day of the Referendum and, without unfolding the ballot,

- (a) set aside the ballot if:
 - (i) it was not accompanied by a Voter Declaration Form or the Voter Declaration Form is not signed and witnessed;
 - (ii) the name of the Eligible Voter set out in the Voter Declaration Form is not on the voters' list; or
 - (iii) the voters' list shows that the Eligible Voter has already voted; or
- (b) place a mark on the voters' list opposite the name of the Eligible Voter set out in the Voter Declaration Form and deposit the ballot in a ballot box.

67.2 As soon as is practicable after the mail-in ballots have been deposited under section 67.1, the Referendum Officer shall, in the presence of the Deputy Referendum Officer and the Lands Manager or a member of hiwá?qʷ ʔi? səyəm̓ who is present, open all ballot boxes and:

- (a) examine the ballots;
- (b) set aside any ballot that does not have the initials of the Referendum Officer on the back;
- (c) reject all ballots:
 - (i) that have been marked incorrectly; or
 - (ii) upon which anything appears by which an Eligible Voter can be identified;
- (d) count the votes given in favour of and against the question or questions submitted in the Referendum; and

həh̓qəmiñəh̓ language references:

hiwá?qʷ ʔi? səyəm̓ – Kwantlen Council

siyaʔəxʷeʔ - Kwantlen Elders Advisory Group

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- (e) prepare a statement in writing of the number of votes so given and of the number of ballots rejected.
- 67.3 The statement referred to in subsection 67.2(e) shall be signed by the Referendum Officer and the Lands Manager or by a member of hiwa?q^w ?i? səyəm̄ and shall be filed with the Lands Manager.
- 67.4 A ballot set aside under subsection 67.1(a) or 67.2(b) is void and shall not be counted as a vote cast.
- 67.5 As soon as is practicable after the results of the voting are known, the Referendum Officer shall:
 - (a) prepare a statement in triplicate, signed by the Referendum Officer and the Lands Manager or a member of hiwa?q^w ?i? səyəm̄, indicating the number of votes cast in favour of and against the question or questions submitted in the Referendum and the number of rejected ballots; and
 - (b) deliver a copy of that statement to the Lands Manager.
- 67.6 The Referendum Officer shall deposit the ballots used in the voting in a sealed envelope and retain them.
- 67.7 If the Referendum Officer has not received from hiwa?q^w ?i? səyəm̄ notice of a request for a review of a Referendum within thirty (30) days after the day of that Referendum, the Referendum Officer shall destroy the ballots used in the voting.
- 68. **Review Procedure**
- 68.1 An Eligible Voter may, in the manner set out in this article 68, request a review of a Referendum where the Eligible Voter believes that:
 - (a) there was a contravention of this Part 9 that may affect the result of the Referendum; or
 - (b) there was corrupt practice in connection with the Referendum.
- 68.2 A request for a review of a Referendum shall be made in writing and forwarded to the Lands Manager by registered mail within seven (7) days after the day of the Referendum. The written request shall be accompanied by a statutory declaration, sworn before a notary public or a commissioner for taking oaths, setting forth the grounds for requesting the review and the facts substantiating these grounds and shall be accompanied by any documents relied on to support the request for the review.
- 68.3 Within fourteen (14) days after the receipt by the Lands Manager of a request for a review pursuant to section 68.2, the Lands Manager shall forward, by registered mail, a copy of the request to the Referendum Officer who conducted the Referendum and provide

həhəqəmiñəh language references:

hiwa?q^w ?i? səyəm̄ – Kwantlen Council

siyałəx^we? - Kwantlen Elders Advisory Group

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hiwáʔqʷ ʔiʔ səyem̓ with a copy of the request.

68.4 Within fourteen (14) days after the request for a review has been sent by the Lands Manager pursuant to section 68.3,

- (a) the Referendum Officer shall forward to the Lands Manager, by registered mail, a statutory declaration, sworn before a notary public or a commissioner for taking oaths, responding to the grounds stated in the request; and
- (b) hiwáʔqʷ ʔiʔ səyem̓ may, at its option, authorize a member of hiwáʔqʷ ʔiʔ səyem̓ to forward to the Lands Manager, by registered mail, a statutory declaration, sworn before a notary public or a commission for taking oaths, responding to the grounds stated in the request.

68.5 Within ten (10) days after the expiry of the fourteen (14) day period provided for in section 68.4:

- (a) hiwáʔqʷ ʔiʔ səyem̓ shall appoint an Arbitrator; and
- (b) the Lands Manager shall provide the Arbitrator with the information received by the Lands Manager pursuant to sections 68.3 and 68.4 and shall request a decision in writing from the Arbitrator either confirming or invalidating the Referendum result.

68.6 The Arbitrator shall provide a written decision together with reasons and shall deliver a copy of the written decision to the Lands Manager, hiwáʔqʷ ʔiʔ səyem̓ and the Eligible Voter who requested the review.

68.7 The Lands Manager shall post the decision of the Arbitrator for at least seven (7) days:

- (a) at the administrative offices of q̣ʷa:ḥłəḥ; and
- (b) at a location other than the administrative offices of q̣ʷa:ḥłəḥ or electronically on the website of q̣ʷa:ḥłəḥ.

68.8 The Arbitrator may, prior to rendering a decision, hold a hearing on the matter.

68.9 The Arbitrator may, in his or her discretion, give directions for any matter related to the hearing, including but not limited to:

- (a) fixing the date, time and place for the hearing of the review;
- (b) designating the method for taking evidence; and
- (c) designating those persons who are to be notified and the method of notification.

hə́łqəmiḥəḥ language references:
12 28 19 1997

hiwáʔqʷ ʔiʔ səyem̓ - Kwantlen Council

siyáʔəxʷeʔ - Kwantlen Elders Advisory Group

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- 68.10 If a hearing is held, the Arbitrator may, in his or her discretion, make an order respecting the payment of costs of the hearing.
- 68.11 The determination of the Arbitrator shall be final and not subject to appeal.

PART 10 - AMENDING THE LAND CODE

69. Procedure

- 69.1 Except as provided in sections 31.4 and 69.2, all proposed amendments to the Land Code must be approved by Eligible Voters in a Referendum.
- 69.2 After the effective date of this Land Code, if additional lands are set apart by Canada as a reserve for the use and benefit of q̓w̓a:ñłəñ, and the Individual Agreement has been amended to include such additional lands as "Kwantlen First Nation Land", as this term is defined in the Individual Agreement, from the effective date of the said amendment to the Individual Agreement, all references to q̓w̓a:ñłəñ Lands in this Land Code will be deemed to include such additional lands. Any consequential amendments to the Land Code arising from the foregoing may be made pursuant to a Resolution, without the need for approval of the Eligible Voters in a Referendum pursuant to section 69.1.

70. Effective Date of Amendment

An amendment to the Land Code approved by Eligible Voters in a Referendum takes effect as of the first day of the month following the day of the Referendum approving the amendment, or such later date as may be provided for in such amendment.

71. Record of, and Access to, Land Code and Amendments

- 71.1 The Lands Manager shall maintain at the administrative offices of q̓w̓a:ñłəñ a copy of the Land Code and all amendments to the Land Code.
- 71.2 Any person may, upon request, obtain a copy of the Land Code and all amendments to the Land Code upon the payment of such fee as may be prescribed except that a Member may, upon request, obtain a copy of the foregoing free of charge.

łəñłəñ language references:

hiwa?q̓w̓ ñi? səyem̓ - Kwantlen Council

siyałəx̓w̓e? - Kwantlen Elders Advisory Group

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PART 11 - OTHER MATTERS

72. hiw̄a?q̣'w̄ ?i? s̄əyem̄ May Delegate

72.1 hiw̄a?q̣'w̄ ?i? s̄əyem̄ is responsible for the overall administration of this Land Code.

72.2 Subject to sections 72.3, 72.4 and 72.5, hiw̄a?q̣'w̄ ?i? s̄əyem̄ may delegate its duties, responsibilities and power under this Land Code to such person(s) or committee(s).

72.3 hiw̄a?q̣'w̄ ?i? s̄əyem̄ may not delegate its power to enact q̣'w'a:n̄l̄x̄n̄ Land Laws.

72.4 Where this Land Code provides that hiw̄a?q̣'w̄ ?i? s̄əyem̄ shall carry out a duty or task, or exercise a power, by Resolution, hiw̄a?q̣'w̄ ?i? s̄əyem̄ may not delegate such duty, task or responsibility to exercise such power.

72.5 The powers and responsibilities of xix̄á'təm̄ət ct t̄ə ña t̄əm̄əx̄'w̄ and siya'l̄əx̄'w̄e? prescribed in this Land Code, a q̣'w'a:n̄l̄x̄n̄ Land Law or Resolution adopted pursuant to this Land Code may not be reassigned by hiw̄a?q̣'w̄ ?i? s̄əyem̄ to another person or committee.

73. Fees, Forms and Policies

73.1 The Lands Manager may prescribe fees and forms and establish policies, not inconsistent with the provisions of this Land Code, in the implementation of this Land Code.

73.2 Notwithstanding anything to the contrary provided for in this Land Code, where the Lands Manager prescribes a form for any matter provided for in this Land Code, no application, instrument or request will be accepted unless it is made in the prescribed form.

73.3 Notwithstanding anything to the contrary provided for in this Land Code but subject to sections 15.2 and 74.2, where the Lands Manager prescribes a fee for any matter provided for in this Land Code, no application or request will be accepted unless it is accompanied by the prescribed fee.

74. Register of Resolutions

74.1 The Lands Manager shall maintain at the administrative offices of q̣'w'a:n̄l̄x̄n̄ the originals of all Resolutions passed pursuant to this Land Code.

74.2 Any person may, upon request, obtain a copy of all Resolutions referred to in section 74.1 upon the payment of such fee as may be prescribed except that a Member may, upon request, obtain a copy of the foregoing free of charge.

h̄əñd̄əm̄ih̄ərn̄ language references:

hiw̄a?q̣'w̄ ?i? s̄əyem̄ - Kwantlen Council

siya'l̄əx̄'w̄e? - Kwantlen Elders Advisory Group

q̣'w'a:n̄l̄x̄n̄ - Kwantlen First Nation

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75. Indemnification

q̣'wa:ńłəń will indemnify and save harmless all members of hiwa?q̣'w ʔi? səyəń, xixá'əmət ct tə ńa təməx̣'w and siya'əx̣'w'e? and employees, officers and contractors of q̣'wa:ńłəń from and against any and all liability, damages, costs (including reasonable legal fees and disbursements), charges and expenses arising out of or related to any act or omission done or permitted by them to be done in connection with their duties in administering and managing q̣'wa:ńłəń Lands, save in the case of fraud, wilful misconduct or gross negligence.

76. Insurance

q̣'wa:ńłəń may purchase and pay for such insurance as may be available at a reasonable cost, as determined by hiwa?q̣'w ʔi? səyəń, to cover the liability of the members of hiwa?q̣'w ʔi? səyəń, xixá'əmət ct tə ńa təməx̣'w and siya'əx̣'w'e? and employees, officers and contractors of q̣'wa:ńłəń to which the indemnity provided for in article 75 applies.

77. Bonding

Every person with responsibilities for administering revenue derived from q̣'wa:ńłəń Lands must be bondable.

78. Offences

Unless a q̣'wa:ńłəń Land Law provides for otherwise, the summary conviction procedures of Part XXVII of the *Criminal Code* apply to offences under this Land Code or a q̣'wa:ńłəń Land Law.

79. Effective Date of Land Code

79.1 This Land Code shall come into effect if:

- (a) Eligible Voters approve this Land Code and the Individual Agreement through a vote conducted in accordance with the q̣'wa:ńłəń (Kwantlen) Community Ratification Process dated for reference February 21, 2015, and
- (b) this Land Code has been certified by the Verifier in accordance with the Framework Agreement.

79.2 Subject to section 79.1, this Land Code will take effect on the first day of the month following certification of this Land Code by the Verifier.

həńq̣'amińəń language references:

hiwa?q̣'w ʔi? səyəń -- Kwantlen Council

siya'əx̣'w'e? - Kwantlen Elders Advisory Group

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