

# SQUAMISH NATION



## INTESTATE POLICY

APPROVED July 11, 1994  
with subsequent revisions effective as at October 12, 2005

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### OBJECTIVES and PRINCIPLES

- ◆ The purpose of this document is to set out policies which reflect the customs of the Nation governing the transmission of interests in Custom Lots from the estates of Deceased Members of the Squamish Nation, who have died without a Will.
- ◆ The objectives of Council as expressed in this Policy are to fulfil its commitment to provide better administration of the day-to-day affairs of the Members of the Squamish Nation, while operating in accordance with clear business principles and remaining fiscally responsible and accountable to its membership.
- ◆ The policies set out in this document will continue to be updated, from time to time, as new concerns are identified and new policies are established to address these concerns.
- ◆ This Policy is based on the following principles:
  - ▶ That the transmission of an interest in a Custom Lot from a Member who has died without a Will to a person eligible to receive, is a decision to be made by the Deceased's family.
  - ▶ That the administration of Squamish Nation estate files be concluded in a timely manner.
  - ▶ That the Squamish Nation intestate policy be administered in a cost-effective, service-orientated and accountable manner.
  - ▶ That all Members be treated in as fairly and equally a manner as possible in the transmission of interests in Custom Lots among those eligible to receive.
  - ▶ That the administrative infrastructure be separated from and function independently of the political governance of the Squamish Nation.

## 1. INTERPRETATION

- 1.1 This policy document is to be referred generally as the "Squamish Nation Intestate Policy", and within this document as the "Policy" or the "Intestate Policy".
- 1.2 In this Policy, descendants and relatives of the Deceased who were conceived but not born before the Deceased's death and who are subsequently born, will inherit as if they had been born in the lifetime of the Deceased and had survived the Deceased.

### Application

- 1.3 This Policy applies only to Custom Lots situated on a Squamish Nation Reserve.
- 1.4 This Policy does not apply to reserve land held under a Certificate of Possession or a Notice of Entitlement.

### Definitions

- 1.5 In this Intestate Policy, unless the context otherwise requires:
- (a) "**appeal**" means an appeal made under section 5.2 by an Eligible Heir, or any other Member directly affected by decisions of the Family Council, Land Registry Officer or Director of Registry, as the case may be;
  - (b) "**Appeals Committee**" means the appeals committee appointed by Council under section 5.4;
  - (c) "**Appellant**" means an Eligible Heir, or any other Member of the Nation directly affected by decisions made under this Policy who requests an appeal hearing by filing a *Request for Appeal Hearing*, in the prescribed form, with the Director of Registry under section 5.3.
  - (d) "**Certificate of Possession**" means a document issued by the Minister of Indian and Northern Affairs which states that the holder is entitled, under section 20 of the *Indian Act*, to lawful possession of the lands described in the Certificate;
  - (e) "**Child**" means a child of Indian descent and includes:
    - (i) a biological child;
    - (ii) a child adopted by either:
      - (A) the traditional laws and customs of the Squamish Nation; or
      - (B) the laws of a Province or other legal jurisdiction,
    - (iii) a biological or adopted child who has been fostered out by either:
      - (A) the traditional laws and customs of the Squamish Nation; or

(B) the laws of a Province or other legal jurisdiction,

but does not include:

- (iv) a biological child of the Deceased who has been adopted by another person under any laws; or
- (v) a non-Indian child, who is adopted by the Deceased under any laws.
- (f) “**Council**” means the lawfully elected Councillors of the Squamish Nation;
- (g) “**Council Motion**” means a motion passed at a duly convened meeting of Council;
- (h) “**custom allocation**” means an individual right to use and occupy a portion of the reserve in accordance with the custom of the Nation, granted by Council by way of a Council Motion;
- (i) “**Custom Lot**” means a Lot which has been assigned under custom allocation and which is administered under custom of the Nation and not under the *Indian Act* land registry system;
- (j) “**Deceased**” means a Member who has died intestate;
- (k) “**Director of Registry**” means the Director of the Squamish Nation Registry Department;
- (l) “**Eligible Heir**” means a Member related to the Deceased, as at the date of death, by blood or through adoption and who is among those entitled to be considered to receive an interest in the Custom Lot of the Deceased, and which term is distinguished from heir-at-law;
- (m) “**Family Administrator**” means a person appointed by the Family Council to administer the distribution of the Deceased’s interest in a Custom Lot;
- (n) “**Family Council**” means those persons selected under section 2.4 from the Deceased’s family to choose a Family Administrator and to assist in determining who should receive the Deceased’s interest in a Custom Lot;
- (o) “**INAC**” means the federal department of Indian and Northern Affairs Canada responsible for administering the *Indian Act*;
- (p) “**Indian**” means a person who, under the *Indian Act*, is registered as an Indian or is entitled to be registered as an Indian;
- (q) “**intestate**” means to die either without a Will or without a valid Will;
- (r) “**heir-at-law**” means a person who, under the *Indian Act* or the *BC Estate Administration Act*, has a right to inherit all of the estate of a deceased person