



Title	Lot Rights and Transfers Policy		
Area	Housing		
Council Resolution	25148	Document #	HOU-009-001
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1.0 Purpose

- 1.1 The purpose of this document is to define broad requirements and responsibilities for holding and transferring Custom Lots and Certificate of Possession Lots.
- 1.2 This policy will be guided by the following Skwxwú7mesh Úxwumixw (Squamish Nation) values:
- (a) Úxwumixw - "Nation; Village [Houses and Inhabitants]; Community; People"
 - (b) Stélmexw - "Indigenous Person; Human Being; Human People"
 - (c) Nexwníw - "Advice; Teaching; Upbringing; Instructions; Ways; Fashion; Manners"
 - (d) Wenáxws – "Treat (Someone) With Respect; Believe (Someone); Respect (Someone); Honour (Someone)"
 - (e) Siyámin - "Area Belonging to a Siyám; Responsibilities Related to the Role of a Leader"
 - (f) Snéwíyelh - "Advice; Teachings; Cultural Knowledge"

2.0 Scope

- 2.1 This policy applies to:
- (a) Custom Lots and Certificate of Possession Lots; and
 - (b) Nexwsxwníwntm ta Úxwumixw (Council), Employees, Squamish People and any other individuals who may use or occupy Skwxwú7mesh Úxwumixw (Squamish Nation) Custom Lots or Certificate of Possession Lots.

3.0 Policy Statements

Lot Rights

Collective Ownership



- 3.1 Skwxwú7mesh Úxwumixw (Squamish Nation) allocates Custom Lots to uphold its tradition of collective ownership of land for the benefit of all Squamish People.
- 3.2 A Squamish Person who holds an interest in a Custom Lot only has the right to use and occupy the Custom Lot based on Nexwsxwníwntm ta Úxwumixw (Council) approval and in accordance with Skwxwú7mesh Úxwumixw (Squamish Nation) policies and bylaws.
- 3.3 Interest in a Custom Lot cannot be transferred to anyone who is not a Squamish Person.

Equitable Distribution

- 3.4 Skwxwú7mesh Úxwumixw (Squamish Nation) is committed to the equitable distribution of Lots among Squamish People and does not support the accumulation of multiple Lots by individual Squamish People.
- 3.5 A Squamish Person cannot hold a full or partial interest in a Custom Lot if they also have a full or partial interest in another Custom Lot or a Certificate of Possession Lot.
- 3.6 If a Squamish Person holds an interest in more than one Lot as defined above, Wa Ns7eyx ta Temíxw (Community Lands) will notify that Squamish Person that they are required to transfer their interest in one or more Lots as necessary to comply with the provision above.
- 3.7 A Squamish Person who is required to transfer their interest in one or more Lots to meet the requirements above will be required to complete the transfers within 180 days of receiving the notification from Wa Ns7eyx ta Temíxw (Community Lands).
- 3.8 A Squamish Person may submit a written request to the Director of Wa Ns7eyx ta Temíxw (Community Lands) for an extension to the 180-day deadline. The Director of Wa Ns7eyx ta Temíxw (Community Lands) may grant an extension if the Squamish Person provides a clear and reasonable explanation for the requested extension.
- 3.9 If a Squamish Person does not transfer their interest in one or more Lots as required above, the Director of Wa Ns7eyx ta Temíxw (Community Lands) will make a recommendation to Nexwsxwníwntm ta Úxwumixw (Council) to:
 - (a) revoke one or more Custom Lot(s) if the Squamish Person holds a full interest in the Custom Lot(s); or
 - (b) re-allocate the Squamish Person's interest to the other interest holders in the same Custom Lot(s) if the Squamish Person holds a partial interest in the Custom Lot(s).

Clear Responsibilities

- 3.10 Skwxwú7mesh Úxwumixw (Squamish Nation) will aim to simplify and clarify interest holders for each Custom Lot to limit disputes and ensure responsibilities for Custom Lots are clear.



- 3.11 Squamish People will use and care for their Lots as their primary residences, unless allowed otherwise by Skwxwú7mesh Úxwumixw (Squamish Nation) policies.
- 3.12 Permanent Improvements constructed on a Custom Lot form part of the Custom Lot, are treated together as one unit, and cannot be dealt with or disposed of separately.
- 3.13 A Squamish Person who holds a partial interest in a Custom Lot can only transfer the partial interest to one or more Squamish People who hold an interest in the same Custom Lot, except as defined below:
- (a) A Squamish Person may choose to transfer a partial interest in a Custom Lot to a Squamish Person who does not share an interest in the same Custom Lot as an inheritance.
 - (b) Partial interest in a Custom Lot may be transferred to a Squamish Person who does not share an interest in the same Custom Lot if required by a Skwxwú7mesh Úxwumixw (Squamish Nation) policy or the *Family Homes on Reserve and Matrimonial Interests or Rights Act*.
- 3.14 Wa Ns7eyx ta Temíxw (Community Lands) will provide information and support to Squamish People who hold an interest in Custom Lots to plan for the transfer of their interest, including:
- (a) determining if their interest in a Custom Lot will be held as Joint Tenants or Tenants in Common;
 - (b) understanding the implications of the dissolution of a relationship for their interest in a Custom Lot; and
 - (c) planning for the responsible transfer of their interest in a Custom Lot following their death.

Additional Requirements

- 3.15 Anyone who is not a Squamish Person has no legal interest or right in a Lot or Permanent Improvements but may have occupancy or compensation rights in accordance with the *Family Homes on Reserve and Matrimonial Interests or Rights Act*.
- 3.16 The rights of Spouses to Lots and Permanent Improvements will be managed in accordance with the *Family Homes on Reserve and Matrimonial Interests or Rights Act*, including:
- (a) the right to occupy the Family Home during the conjugal relationship;
 - (b) not disposing of interest in a Family Home without the consent of the other Spouse; and



- (c) applying for an emergency protection or exclusive occupation order for the Family Home.

3.17 A Squamish Person with interest in a Certificate of Possession Lot will use their Certificate of Possession Lot in accordance with the *Indian Act* and all current Skw̓xwú7mesh Úxwumixw (Squamish Nation) bylaws and all bylaws which may be enacted from time to time.

Lot Transfers

3.18 A Custom Lot can only be transferred for one of the following reasons:

- (a) a marriage or common-law relationship between interest holders has dissolved;
- (b) an interest holder has ceased to be a Squamish Person in accordance with the *Membership Code*;
- (c) an interest holder has died, and their interest is passed on to another Squamish Person in accordance with this policy;
- (d) interest in a Custom Lot has been sold or bought in accordance with Skw̓xwú7mesh Úxwumixw (Squamish Nation) policies; or
- (e) a transfer is required to meet other Skw̓xwú7mesh Úxwumixw (Squamish Nation) bylaw or policy requirements.

3.19 When accepting interest in a Custom Lot, a Squamish Person will be required to sign a statutory declaration acknowledging the policy requirements and implications related to receiving and holding an interest in a Custom Lot.

3.20 All Custom Lot transfers will be approved by Nexwsxwníwntm ta Úxwumixw (Council).

3.21 Nexwsxwníwntm ta Úxwumixw (Council) may deny a Custom Lot transfer if:

- (a) there are health, safety, or other concerns related to any party involved in or impacted by the transfer; or
- (b) if the transfer is not considered to be in the best interest of Skw̓xwú7mesh Úxwumixw (Squamish Nation).

3.22 Transfer of interest in a Certificate of Possession Lot will be managed in accordance with the *Indian Act*.

3.23 To support the responsible administration and transfer of Lots, Wa Ns7eyx ta Temíxw (Community Lands) will:

- (a) maintain an inventory of all Lots;



- (b) track all interest holders for each Lot; and
- (c) ensure the reason for each Custom Lot transfer is clear and documented.

Dissolution of Relationship

3.24 If a marriage or common-law relationship between two Squamish People who hold an interest in a Custom Lot dissolves, they will have the option to:

- (a) submit a written agreement to Wa Ns7eyx ta Temíxw (Community Lands) indicating which Spouse will receive interest in the Custom Lot; or
- (b) apply to have their rights to the home and Lot and any related compensation determined in accordance with the *Family Homes on Reserve and Matrimonial Interests or Rights Act*.

3.25 If a marriage or common-law relationship between a Squamish Person and non-Squamish Person who occupied a Family Home on a Custom Lot dissolves, the Squamish Person will have the right to occupy the Family Home, unless:

- (a) the Squamish Person submits a written agreement to Wa Ns7eyx ta Temíxw (Community Lands) giving their non-Squamish Person former Spouse the right to occupy the Family Home on the Custom Lot for a set period of time; or
- (b) the non-Squamish Person former spouse is granted a right to occupy the Family Home in accordance with the *Family Homes on Reserve and Matrimonial Interests or Rights Act*.

Loss of Membership

3.26 If a Squamish Person loses or gives up their membership in accordance with the *Membership Code*, they will transfer their interest in a Custom Lot within 180 days to:

- (a) their former Squamish Person Spouse;
- (b) an adult in trust for a minor child or grandchild of the Squamish Person and former Squamish Person;
- (c) an adult child of the Squamish Person and former Squamish Person; or
- (d) Skwxwú7mesh Úxwumixw (Squamish Nation) if they have full interest in a Custom Lot.

3.27 If a former Squamish Person holds full interest in a Custom Lot and does not transfer their interest as required above, the Custom Lot will automatically revert to Skwxwú7mesh Úxwumixw (Squamish Nation) without any compensation to the former Squamish Person.



- 3.28 If a former Squamish Person holds partial interest in a Custom Lot and does not transfer their interest as required above, Nexwsxwníwntm ta Úxwumixw (Council) will re-allocate the interest to one of the eligible parties identified above.
- 3.29 If a Squamish Person with interest in a Certificate of Possession Lot loses or gives up their membership in accordance with the *Membership Code*, they will transfer their interest in accordance with the *Indian Act*.
- 3.30 If a person does not transfer their interest in a Certificate of Possession Lot as required above, the right to possession will revert to Skwxwú7mesh Úxwumixw (Squamish Nation) with compensation for Permanent Improvements as determined by the Minister, in accordance with the *Indian Act*.

Buying and Selling

- 3.31 Homes on Custom Lots that were financed in accordance with the *Hiyám Home Loan Policy* will be sold in accordance with the *Hiyám Home Loan Policy*.
- 3.32 Homes on Custom Lots that were fully self-financed by Squamish People may be sold to other Squamish People or to Skwxwú7mesh Úxwumixw (Squamish Nation).
- 3.33 Homes on Custom Lots that were financed by Squamish Nation cannot be sold unless:
- (a) the home is part of an estate and sale of the home would help to settle the estate;
 - (b) the home is sold to Squamish Nation for a price determined by Squamish Nation; and
 - (c) the sale is approved by Council.
- 3.34 Homes on Custom Lots or Certificate of Possession Lots may be sold if required by the *Indian Act* or *Family Homes on Reserve and Matrimonial Interests or Rights Act*.

Wills and Beneficiaries

- 3.35 When a Squamish Person with interest in a Custom Lot dies, their interest in the Custom Lot will be transferred based on:
- (a) their most recent will or designated beneficiary; and
 - (b) in accordance with any applicable terms in the *Family Homes on Reserve and Matrimonial Interests or Rights Act*.
- 3.36 Squamish People may will their interest in Certificate of Possession Lots in accordance with the *Indian Act* and the *Family Homes on Reserve and Matrimonial Interests or Rights Act*.



Intestate

3.37 If a Squamish Person with interest in a Certificate of Possession Lot dies without a will, their interest will be administered in accordance with the *Indian Act* and the *Family Homes on Reserve and Matrimonial Interests or Rights Act*.

Basic Transfer

3.38 If a person with interest in a Custom Lot dies without a will or a designated beneficiary, their interest will be transferred as defined below or as required by the *Family Homes on Reserve or Matrimonial Interests or Rights Act*:

- (a) If their interest was held in Joint Tenancy, their interest will pass to the remaining joint tenants.
- (b) If the person has a surviving Spouse who is a Squamish Person, their interest will be transferred to the surviving Spouse, whether or not there are surviving children.

Family Council and Administrator

3.39 A Family Council will be established if:

- (a) the Deceased left a will, but their family would like to appoint a Family Administrator rather than waiting for an administrator to be appointed by Indigenous Services Canada;
- (b) the Deceased did not have a will or a designated beneficiary, their interest was not held in Joint Tenancy, and they do not have a surviving Spouse who is a Squamish Person;
- (c) a caretaker needs to be appointed for the Deceased's home until the Deceased's estate is settled;
- (d) the Deceased left a will but did not name an executor;
- (e) the Deceased left a will, but the executor is unable or unwilling to act and no alternate has been named; or
- (f) the Deceased left a will, but it is not approved in accordance with the *Indian Act*.

3.40 A Family Council will be established to:

- (a) choose a Family Administrator; and
- (b) assist a Family Administrator in determining who should receive the Deceased's interest in a Custom Lot if the Deceased died without a will or designated beneficiary.



- 3.41 The process to appoint a Family Administrator for a Deceased's estate needs to begin within six months of the Deceased's date of death.
- 3.42 The following persons will be entitled to form a Family Council for a deceased Squamish Person:
- (a) the Deceased's surviving Spouse, if any; and
 - (b) any surviving children of the Deceased who are the full age of 18 years and the legal representatives of any surviving minor child.
- 3.43 If the Deceased leaves no survivors as described above, then the following persons will be entitled to form a Family Council:
- (a) any surviving parent of the Deceased; and
 - (b) any surviving siblings, or a legal representative of any siblings who died before the Deceased.
- 3.44 If the Deceased leaves no survivors as described above, then the following persons will be entitled to form a Family Council:
- (a) any surviving grandparent of the Deceased; and
 - (b) any surviving grandchildren of the Deceased.
- 3.45 If the Deceased leaves no survivors as described above, then any surviving niece or nephew of the Deceased will be entitled to form a Family Council.
- 3.46 If the Deceased leaves no survivors as described above, then a minimum of three and maximum of five of the Deceased's closest surviving relatives who are Squamish People and are of the full age of 18 years will be entitled to form a Family Council.
- 3.47 Those relatives of the Deceased who comprise the Family Council may choose to add any other persons to the Family Council as may be agreed upon by all members of the Family Council.
- 3.48 If a member of the Family Council or an Eligible Heir lacks the capacity to participate in the process for a reason other than being a minor, the person's right to participate may be exercised either by someone who is legally authorized to act for the person or by such other representative as the Family Administrator ultimately deems appropriate.
- 3.49 The Family Council will appoint a willing individual to act as Family Administrator to:
- (a) administer the distribution of the Deceased's interest in a Custom Lot; and
 - (b) be responsible for all decisions and determinations required in the course of the administration and distribution of the interest in a Custom Lot.



3.50 The Family Administrator:

- (a) does not need to be a Squamish Person;
- (b) may be the same person appointed under the *Indian Act* as an “Administrator” to administer the estate property of the Deceased; and
- (c) may not be a Wa Ns7eyx ta Temíxw (Community Lands) Employee if their involvement would constitute a conflict of interest.

Determining Heirs

- 3.51 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.
- 3.52 The Family Administrator will submit a written request to Skwxwú7mesh Úxwumixw (Squamish Nation) for a list of Eligible Heirs and will take any other steps as appropriate to identify and locate all possible Eligible Heirs for the Deceased’s Custom Lot.

Disposition of Lot

- 3.53 The Family Council and Eligible Heirs will decide which Squamish Person or Squamish People will be given interest in the Custom Lot within two years of appointing a Family Administrator.
- 3.54 If the deceased’s Spouse is not a Squamish Person, the rights of the Spouse in relation to the Custom Lot will be determined in accordance with the *Family Homes on Reserve and Matrimonial Interests or Rights Act*.
- 3.55 The limited right of occupancy granted to a surviving Spouse who is not a Squamish Person is not transferable.
- 3.56 Upon termination of the limited right of occupancy for a Spouse who is not a Squamish Person, the Family Council will choose a Squamish Person to receive the Deceased’s interest in the Custom Lot.

Agreement

- 3.57 Each Eligible Heir will sign an agreement stipulating that the Eligible Heir quit claims and renounces any interest in the Custom Lot and consents to transfer of the Custom Lot to the Squamish Person chosen by the Family Council.
- 3.58 Nexwsxwníwntm ta Úxwumixw (Council) will not approve the allocation of the Custom Lot to the chosen Squamish Person unless the signatures of all the Eligible Heirs have been obtained.



- 3.59 If a simple majority of the Eligible Heirs have signed the agreement, the Family Administrator will notify those Eligible Heirs who have not signed the agreement advising the Holdouts that Nexwsxwníwntm ta Úxwumíxw (Council) will allocate the Eligible Heirs' interest in the Custom Lot to the chosen Squamish Person within 30 days without any further consideration of the Holdouts who have refused to sign the agreement.
- 3.60 The Holdouts who refuse to sign an agreement or any other Squamish Person directly affected by the decision of the Family Council may appeal the decision of the Family Council regarding the disposition of the Custom Lot before expiry of the thirty-day period.
- 3.61 If any one or more of the Eligible Heirs do not wish to quit claim and renounce their interest in the Custom Lot and consent to its transfer, Nexwsxwníwntm ta Úxwumíxw (Council) will not approve the allocation of the Custom Lot to the Squamish Person chosen to receive it until either:
- (a) the thirty-day appeal period has expired without an appeal hearing being requested; or
 - (b) a duly requested appeal has been resolved by the Appeals Committee.

Appeals

- 3.62 There is no right of appeal to Nexwsxwníwntm ta Úxwumíxw (Council) or any other body regarding decisions of the Family Administrator, Family Council, or Director of Wa Ns7eyx ta Temíxw (Community Lands), except as provided in this policy.
- 3.63 The following decisions may be appealed to the Appeals Committee by an Eligible Heir or any other Squamish Person directly affected by such decisions:
- (a) a decision of the Family Council to select a Squamish Person or Squamish People to receive an allocation of the Deceased's interest in a Custom Lot;
 - (b) a decision of the Director of Wa Ns7eyx ta Temíxw (Community Lands) to recommend allocation of a Custom Lot to Skwxwú7mesh Úxwumíxw (Squamish Nation) be approved by Nexwsxwníwntm ta Úxwumíxw (Council); and
 - (c) a decision of the Director of Wa Ns7eyx ta Temíxw (Community Lands) not to grant the Family Council a six-month extension of the two-year limitation period.
- 3.64 An appeal needs to be submitted to the Director of Wa Ns7eyx ta Temíxw (Community Lands) in writing within 30 days of the decisions being appealed having been made.
- 3.65 An Appeals Committee will be established by Nexwsxwníwntm ta Úxwumíxw (Council) and will consist of five Squamish People and may include an additional two Squamish People, identified as alternates, each appointed for a four-year term.
- 3.66 Quorum for the Appeals Committee will be four persons.



- 3.67 No member of the Appeals Committee may participate in any proceeding where the member's participation would constitute a conflict of interest.
- 3.68 The Appeals Committee will review the appellant's summary of the appeal and will either grant or decline the appeal and will provide written reasons for their decision.
- 3.69 The Appeals Committee's decision and reasons will be provided to the Director of Wa Ns7eyx ta Temíxw (Community Lands) for distribution to the appellant who initiated the appeal.
- 3.70 The Appeals Committee may, in its discretion, obtain legal advice on any question of law or procedure relating to the discharge of their duties.
- 3.71 A member or alternate of the Appeals Committee may only sit for four consecutive terms, not to exceed a total of sixteen years.

Allocation

- 3.72 Nexwsxwníwntm ta Úxwumixw (Council) will allocate the Custom Lot to:
- (a) the Eligible Heir if there is a sole Eligible Heir; or
 - (b) the Squamish Person or Squamish People selected by the Family Council.
- 3.73 If the Deceased leaves no next of kin and thus there are no Eligible Heirs:
- (a) the Deceased's interest in the Custom Lot will revert to Skwxwú7mesh Úxwumixw (Squamish Nation) if the Deceased held full interest in the Custom Lot; or
 - (b) the Deceased's interest in the Custom Lot will be transferred to the other interest holders in the same Custom Lot if the Deceased held partial interest in the Custom Lot.
- 3.74 If the Family Council has not reached a decision on the disposition of the Custom Lot by the deadline or has reached a decision but a majority of Eligible Heirs have not signed the agreement:
- (a) the Custom Lot will revert to Skwxwú7mesh Úxwumixw (Squamish Nation) if the Deceased held full interest in the Custom Lot; or
 - (b) the Deceased's interest in the Custom Lot will be transferred to the other interest holders in the same Custom Lot if the Deceased held partial interest in the Custom Lot.
- 3.75 The Deceased's estate will not be compensated if the Deceased's interest in a Custom Lot reverts to Skwxwú7mesh Úxwumixw (Squamish Nation) or the other partial interest holders as noted above.



- 3.76 Upon the request of the Family Administrator, the Director of Wa Ns7eyx ta Temíxw (Community Lands) may grant the Family Council a maximum of two six-month extensions of the two-year limitation period. The Family Administrator must provide written reasons as to why an extension is required.
- 3.77 All expenses related to administering a Squamish Person's estate will be paid by the Deceased's estate or the Family Council and will not be paid by Skwxwú7mesh Úxwumixw (Squamish Nation).

Estate Caretakers

- 3.78 If a person other than the deceased was living in the deceased's home at the time of their death, they will be given a minimum of 60 days and a maximum of 180 days to vacate the home.
- 3.79 The deadline for vacating the home will be determined by the Director of Wa Ns7eyx ta Temíxw (Community Lands) based on how long the individuals have been living in the home and their personal circumstances.
- 3.80 The Director of Wa Ns7eyx ta Temíxw (Community Lands) may refer individuals who are required to vacate a home to Ts'its'ixwnítway (Member Services) for support with alternative housing.
- 3.81 A Family Council will appoint a caretaker who will live in an estate home after all existing occupants have vacated the home until the deceased's estate has been settled.
- 3.82 The caretaker will sign a written agreement acknowledging that their right to occupy the home is temporary and that they will vacate the home once the estate has been settled, unless interest in the Custom Lot is transferred to them.
- 3.83 If the existing occupants of the deceased home or the caretaker will not vacate the home as required, the Director of Wa Ns7eyx ta Temíxw (Community Lands) will:
- (a) notify Nexwsxwníwntm ta Úxwumixw (Council) that the individuals have not vacated the home as required;
 - (b) send a written notice to the individuals that they are directed by Nexwsxwníwntm ta Úxwumixw (Council) to vacate the home immediately; and
 - (c) notify the individuals that if they do not vacate the home as directed, they may be subject to legal action.
- 3.84 If there are serious issues related to an estate home, such as violence, criminal activity, or other health or safety issues, the Director of Wa Ns7eyx ta Temíxw (Community Lands) may direct the Director of Nexwsp'áyaken ta Úxwumixw (Community Operations) to board up the house until the estate is settled.



Minors

- 3.85 Transfers of interest in a Certificate of Possession Lot to a minor will be managed by Indigenous Services Canada.
- 3.86 Interest in a Custom Lot can only be transferred to a minor if it is held in trust by an adult Squamish Person.
- 3.87 Full or partial interest in a Custom Lot can be held in trust for a minor if:
- (a) the interest is inherited; or
 - (b) the transfer is required due to a loss of membership.
- 3.88 A home on a Custom Lot being held in trust for a minor will be eligible for maintenance, renovations, rentals, and replacement if the minor or trustee is living in it.
- 3.89 A trustee for a minor's interest in a Custom Lot cannot transfer that interest to anyone else.
- 3.90 Interest being held in trust for a minor will automatically transfer to the minor when they turn 18 and the minor will be notified of the transfer.
- 3.91 If a minor passes away while interest is being held in trust for them, the interest will become part of the minor's estate.
- 3.92 A minor's eligibility for other housing programs will not be impacted because interest in a lot is held in trust for them, as long as they dispose of their interest before receiving or occupying other Skwxwú7mesh Úxwumixw (Squamish Nation) housing.

Reacquired Lots

- 3.93 Partial interest in a Lot cannot be transferred to Skwxwú7mesh Úxwumixw (Squamish Nation).
- 3.94 If a Lot reverts to Skwxwú7mesh Úxwumixw (Squamish Nation), the Úxwumixw (Nation) may choose to:
- (a) allocate the Lot in accordance with the *Allocations* Policy Documents;
 - (b) allocate the Lot for the Hiyám Home Loan Program;
 - (c) designate the Lot and home as social housing;
 - (d) offer the Lot for sale; or
 - (e) redevelop the Lot.



3.95 The Director of Wa Ns7eyx ta Temíxw (Community Lands) will make a recommendation to Nexwsxwníwntm ta Úxwumixw (Council) for the use of a reacquired Lot after consulting with:

- (a) Ta na wa Shéway I7xw ta Úxwumixw (Planning and Capital Projects);
- (b) Nexwsp'áyaken ta Úxwumixw (Community Operations);
- (c) Ta na wa Ch'áwat ta Sxwéxwel (Squamish Valley Operations);
- (d) Estxwáyusem (Finance); and
- (e) Hi'yám Housing.

4.0 Supporting Statements

Compliance

4.1 Any Employee violations of this policy may result in disciplinary action, up to and including termination, in accordance with the *Code of Conduct* Policy Documents.

Exceptions

4.2 Exceptions to this policy require approval by the Senior Administrator. The Senior Administrator will report any approved exceptions to the Nexwsxwníwntm ta Úxwumixw (Council) Chair.

Delegation

4.3 The Director of Wa Ns7eyx ta Temíxw (Community Lands) is responsible for the implementation of this policy and the development of supporting procedures.

5.0 Definitions

Certificate of Possession Lot(s): a Lot which has been assigned to a Squamish Person by the Minister of Indian and Northern Affairs which entitles the holder, under section 20 of the *Indian Act*, to lawful possession of the lands described in the certificate.

Child(ren): a child of Indian descent and includes:

- (a) a biological child;
- (b) a child adopted by either the traditional laws and customs of the Skwxwú7mesh Úxwumixw (Squamish Nation) or the laws of a province or other legal jurisdiction;
- (c) a biological or adopted child who has been fostered out by either the traditional laws and customs of Skwxwú7mesh Úxwumixw (Squamish Nation) or the laws of a province or other legal jurisdiction;



but does not include:

- (d) a biological child of the deceased who has been adopted by another person under any laws; or
- (e) a non-Indian child, who is adopted by the Deceased under any laws.

Custom Lot(s): a Lot which has been assigned to a Squamish Person by Nexwsxwníwntm ta Úxwumixw (Council) and which is administered under custom of Skwxwú7mesh Úxwumixw (Squamish Nation) and not under the *Indian Act* land registry system.

Deceased: a Squamish Person with interest in a Custom Lot who has died.

Eligible Heir(s): a Squamish Person related to the deceased 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.

Employee(s): any individual who has an employment agreement with Skwxwú7mesh Úxwumixw (Squamish Nation), including permanent, term, temporary, casual, full-time, or part-time work arrangements.

Family Administrator(s): a person appointed by the Family Council to administer the distribution of the deceased's interest in a Custom Lot.

Family Council(s): those persons selected 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.

Family Home(s): as defined in the *Family Homes on Reserves and Matrimonial Interests or Rights Act*, as amended from time to time.

Heir-at-Law: a person who, under the Indian Act or the BC Estate Administration Act, has the right to inherit all of the estate of a deceased person who has died without a will; and which terms is distinguished from an Eligible Heir.

Holdout(s): those Eligible Heirs who have not signed the *Agreement of Heirs*.

Living Separate and Apart: includes where Spouses:

- (a) have lived separate and apart for at least one year;
- (b) have entered into a written agreement under which they have agreed to live separate and apart;
- (c) have an order of the court recognizing their separation;



and shall not be considered to have been interrupted or terminated by reason only that the Spouses have resumed cohabitation during a period of, or periods totaling, not more than 90 days with reconciliation as its primary purpose.

Lot(s): a Custom Lot or Certificate of Possession Lot that a Squamish Person had full or partial right to occupy.

Joint Tenants: all interest holders are in lawful possession of the Custom Lot, wholly and indivisibly. If one interest holder dies, their interest is transferred to the other interest holders.

Minor Child(ren): a child under the age of 18 years.

Permanent Improvement(s): any permanent structure added to or constructed upon a Custom Lot such as a building or Residence, and which will form part of the Custom Lot.

Personal Representative(s): an administrator of an estate or an executor of a Will.

Policy Document(s): formally approved Policies and Procedures that provide direction for Skwxwú7mesh Úxwumixw (Squamish Nation) programs and administration.

Quit Claim(s): to release, relinquish or give up a claim or interest in a Custom Lot.

Residence(s): a single family accommodation unit, including a house, duplex, or manufactured home.

Senior Administrator(s): individuals delegated responsibility by Nexwsxwníwntm ta Úxwumixw (Council) for leading the planning, organization, implementation, and evaluation of the overall management of all day-to-day operations of Skwxwú7mesh Úxwumixw (Squamish Nation).

Spouse(s): a person who was either:

- (a) legally married or united by the traditional laws and customs recognized by the Skwxwú7mesh Úxwumixw (Squamish Nation) or any other First Nation, to the deceased Squamish Person, and was not living separate and apart from that deceased Squamish Person at the time of the Squamish Person's death; or
- (b) living or cohabiting with the deceased Squamish Person in a marriage-like relationship, including a marriage-like relationship between persons of the same gender, for a continuous period of not less than two years and was being publicly represented by each other during this time period as each other's spouse.

Squamish Person/People: a person listed on the Skwxwú7mesh Úxwumixw (Squamish Nation) *Membership List* in accordance with the Skwxwú7mesh Úxwumixw (Squamish Nation) *Membership Code*.



Tenants in Common: all interest holders are in lawful possession of a divisible percentage of the Custom Lot. If one interest holder dies, the deceased's interest becomes part of the assets of the deceased and is disposed of as part of their estate and the surviving interest holders retain their original interest.

Will(s):

- (a) a written document signed by a Squamish Person in front of two witnesses by which the Squamish Person appoints a personal representative and indicates who is to receive their property after their death; or
- (b) any written document signed by a Squamish Person that has been approved by the Minister of Indigenous Services Canada and pursuant to section 45(3) of the *Indian Act*.

6.0 Related Documents

Compliance Documents

Family Homes on Reserve and Matrimonial Interests or Rights Act (Canada)
Indian Act (Canada)

Associated Documents

Allocations Policy Documents
Code of Conduct Policy Documents
Hiyám Home Loan Policy
Membership Code

Policy Set Documents

Lot Rights and Transfers Procedure

7.0 Policy Changes and Rescinding

7.1 With the approval of this policy, older versions are rescinded and are no longer in effect.

Replaces	Dated	Key Changes
Intestate Policy	July 11, 1994 and October 12, 2005	<ul style="list-style-type: none"> The full Intestate Policy has been incorporated in this policy.
HOU-004-002 Housing Policy 3.1, 3.2, 3.14 – 3.17, 3.19, 3.20, 7.1 – 7.8	October 18, 2024	<ul style="list-style-type: none"> These requirements are now addressed in this policy.



**Skwxwú7mesh
Úxwumixw**

Squamish Nation

8.0 Appendices

8.1 Determination of Eligible Heirs



Appendix 8.1 Determination of Eligible Heirs

The Eligible Heirs of the Deceased's estate are Squamish People related to the Deceased, as at the date of death, by blood or through adoption and who are among those entitled to be considered to receive an interest in the Custom Lot of the Deceased.

For the purpose of determining Squamish People entitled to be considered to receive an interest in the Custom Lot of the Deceased, Eligible Heirs in the "Intestate" section are determined as follows:

- a) If the Deceased leaves a surviving Spouse and no children, then the sole Eligible Heir is the Deceased's surviving Spouse.
- b) If the Deceased leaves a surviving Spouse and any children, then the sole Eligible Heir is the Deceased's surviving Spouse.
- c) If the Deceased leaves children but no surviving Spouse, then the Eligible Heirs are the children.
- d) If the Deceased leaves no surviving Spouse or children, then the Eligible Heirs are the Deceased's mother and father, or the survivor of them.
- e) If the Deceased leaves no surviving Spouse, children, or parent, then the Eligible Heirs are the Deceased's surviving brothers and sisters.
- f) If the Deceased leaves no surviving Spouse, children, parent, brother or sister, then the Eligible Heirs are the Deceased's surviving grandparents.
- g) If the Deceased leaves no surviving Spouse, children, parent, brother, sister or grandparent, then the Eligible Heirs are the Deceased's surviving grandchildren.
- h) If the Deceased leaves no surviving Spouse, children, parent, brother, sister, grandparent or grandchild, then the Eligible Heirs are the Deceased's surviving nieces and nephews.
- i) If the Deceased leaves no surviving Spouse, children, parent, brother, sister, grandparent, grandchild, nieces or nephews, then the Eligible Heirs are the Deceased's surviving first cousins.
- j) If the Deceased leaves no surviving Spouse, children, parent, brother, sister, grandparent, grandchild, nieces, nephews or first cousins, then there are no Eligible Heirs.