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# SHÍSHÁLH NATION CONSTITUTION

## DEFINITIONS AND INTERPRETATION

(a) In this Constitution, the following words have the following meanings:

“Act” means the *Sechelt Indian Band Self-Government Act*, S.C. 1986, c. 27, as may be amended or replaced from time to time;

“Administration Building” means the main administration building for the shíshálh Nation;

“By-Election” means a by-election held to fill a Council vacancy pursuant to this Constitution and the shíshálh Nation Election and Referendum Law;

“Chief” means the candidate duly elected to Council as Chief pursuant to Part II of this Constitution and the shíshálh Nation Election and Referendum Law;

“Chief Administrative Officer” means the person appointed by Council to be the Chief Administrative Officer for shíshálh Nation;

“Council” means the collective of the shíshálh Nation Chief and Councillors duly elected pursuant to Part II of this Constitution and the shíshálh Nation Election and Referendum Law;

“Councillor” means a candidate duly elected to Council as a Councillor pursuant to Part II of this Constitution and the shíshálh Nation Election and Referendum Law;

“Election” means the process by which the Members elect Council;

“Electoral Officer” means a person appointed under the shíshálh Nation Election and Referendum Law to conduct an Election, Referendum or By-Election;

“Indian” means a person who has the legal status of an Indian under the *Indian Act*;

“Indian Band” means an Indian Band or First Nation, other than the shíshálh Nation, recognized under the *Indian Act*, R.S.C. 1985, c. I-5 or other federal legislation;

“Majority” means at least fifty per cent plus one (50%+1);

“Members” means all persons who are eligible for membership in the shíshálh Nation and who are registered on the Membership List maintained by shíshálh Nation pursuant to Part I, Division (1) of this Constitution;

“Membership List” means the list of persons who are registered Members, maintained pursuant to Part I, Division (1) of this Constitution;

“Minister” means the Minister of Indian Affairs and Northern Development;

“Ordinarily Resident” means the place where a person regularly, normally or customarily lives;

“Referendum” means a referendum held pursuant to this Constitution and the shíshálh Nation Election and Referendum Law;

“Sechelt Lands” means lands transferred to the shíshálh Nation pursuant to the Act;

“shíshálh Nation” means the Sechelt Indian Band recognized under s. 5(1) of the Act;

“shíshálh Nation Election and Referendum Law” means the law enacted by the Council, and approved by Voters pursuant to a Referendum, setting out the processes to be followed in shíshálh Nation Referendums, Elections and By-Elections;

“Voter” means a person who is on the shíshálh Nation’s Membership List and who is 18 years of age at the time a shíshálh Nation Referendum, Election or By-Election vote is held;

“Voters’ List” means an alphabetical listing of Voters that includes the name, business address, e-mail address, business telephone and facsimile number of the Electoral Officer and the location of the polling station(s), made pursuant to Part 1, Division (4), section 2;

- (b) Wherever the singular, or masculine, or the term “person” is used in this Constitution, it is deemed to include the plural, feminine, body corporate, Band or other entity where the context so requires;
- (c) The preambles, headings and sub-headings within this Constitution are for convenience only, do not form a substantive part of this Constitution, and are not to be used to define, limit, alter or enlarge the scope or meaning of any other provision of this Constitution.

## PART I – THE SHÍSHÁLH NATION

### **DIVISION (1) – SHÍSHÁLH NATION MEMBERSHIP**

- shíshálh  
Membership List
1. The Membership List shall be maintained by the Council in the offices of the shíshálh Nation. There shall be entered in the Membership List the name of every person who is a member of the shíshálh Nation.
- First Band List
2. The first Membership List shall comprise members of the shíshálh Nation as recorded in the Membership List maintained by the shíshálh Nation upon the date of enactment of the Act. This first Membership List shall be added to and amended as hereinafter provided.
- General Entitlement  
to be entered
3. (1) A person is entitled to be entered in the Membership List if he or she is:
- (a) the natural child of a member of the shíshálh Nation unless the parents of that child are a non-Indian and a widowed shíshálh Nation Member who has no Indian blood; or
  - (b) a member of another Indian Band who was originally a Member of the shíshálh Nation provided that he or she simultaneously resigns his or her membership in that other Indian Band;
- (2) Where a member of another Indian Band is legally adopted by a shíshálh Nation Member that member of the other Indian Band shall be entitled to shíshálh Nation membership.
- Entitlement under  
Indian Act
4. A person is entitled to be entered in the Membership List as a member of the shíshálh Nation if he or she is entitled to be registered as an Indian and a member of the shíshálh Nation under paragraphs 6(1)(a), 6(1)(c), 6(1)(d), 6(1)(e), 6(1)(f) or 6(2) of the Indian Act R.S.C., 1970.
- Entitlement by Band  
Vote
5. A person is entitled to be entered in the Membership List as a member of the shíshálh Nation if 75% of the Voters vote in favour of his or her entitlement to be registered during a Referendum of the shíshálh Nation called for this purpose. If less than 75% of the Voters but more than 50% of the Voters who actually vote in the first Referendum vote in favour of a person's entitlement to be entered that person shall be entitled to a second vote on his or her application for membership to the shíshálh Nation, and this second vote shall take place within twelve (12) months of the first and shall require a vote in favour of 75% of the Voters who actually vote. The

Referendum to be held for the purposes of this section shall be conducted in the manner provided for in Divisions (4) and (5) of this Part.

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| Membership upon Marriage           | 6. Where a member of another Indian Band marrying a shíshálh Nation Member wants to become a Member of the shíshálh Nation, he or she shall be entitled to shíshálh Nation Membership provided that notice of this intention is given to the Council within one hundred and twenty (120) days of the marriage. Where a Member marries a member of another Indian Band that Member shall have the choice whether to remain a member of the shíshálh Nation or to transfer to the spouse's Band if the spouse's Band so allows.   |
| No entitlement otherwise           | 7. No person is entitled to be entered on the Membership List as a member of the shíshálh Nation except as provided for in sections 3, 4, 5 and 6 hereof.   |
| Loss of membership Upon divorce    | 8. Where a person having no Indian blood has become a Member of the shíshálh Nation prior to April 17, 1985 on account of marriage to a Member of the shíshálh Nation, that person having no Indian blood shall no longer be entitled to shíshálh Nation membership upon divorce from the Member.<br><br>9. Where a person having no Indian blood has become a Member of the shíshálh Nation prior to April 17 1985 because of marriage to a Member of the shíshálh Nation and that person subsequently has a child or children with another person having no Indian blood, that child or children shall not be entitled to shíshálh Nation membership. |
| No other deprivation of Membership | 10. No Member of the shíshálh Nation shall be deprived of his or her shíshálh Nation membership for any cause other than as provided for in section 8.  |
| Appeal procedure                   | 11. An appeal shall lie to the Supreme Court of British Columbia from a decision of the Council concerning eligibility to be recorded on the Membership List but any decision of the Voters pursuant to section 5 shall be final and binding, subject to any Referendum appeal provisions set out elsewhere in this Constitution or the shíshálh Nation Election and Referendum Law.  |

## DIVISION (2) – shíshálh NATION LAND REGIME

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| Sechelt Lands held for Members       | 1. The Sechelt Lands shall be held by the shíshálh Nation for the use and benefit of the Members and, subject to section 24(c) of the Act, no further Certificates of Possession shall be issued.  |
| Allocation of residential lots       | 2. The rights, and the procedures to protect those rights, of the Member to use and occupy the lot upon which his or her house is situated shall be provided for by resolution of the Council or shíshálh Nation law. The procedure for the issuance of all residential lots available to Members and the settlement of disputes, if any, shall be decided upon by the Council and the lots allocated accordingly.   |
| Taking of Sechelt Lands for purposes | 3. (1) Where by an Act of the Legislature of the Province of British Columbia, Her Majesty in right of the Province of British Columbia, a municipal or local authority of a corporation is empowered to take or to use land or any interest therein without the consent of the owner, the power may, with the consent of the Council and subject to any terms that may be prescribed by the Council, be exercised in relation to Sechelt Lands or any interest therein.<br><br>(2) Unless the Council otherwise directs, all matters relating to compulsory taking or using of Sechelt Lands under subsection (1) are governed by the statute by which the powers are conferred.<br><br>(3) Wherever the Council has consented to the exercise by the Province of British Columbia, the municipal or local authority or a corporation of the powers referred to in subsection (1), the Council may, in lieu of the Province, authority or corporation taking or using the Sechelt Lands without the consent of the owners, authorize a transfer or grant of such Sechelt Lands to the Province, or authority or corporation, subject to any terms that may be prescribed by the Council.<br><br>(4) Any amount that is agreed upon or awarded in respect of the compulsory taking or using of Sechelt Lands under this section or that is paid for a transfer or grant of Sechelt Lands pursuant to this section shall be paid to the shíshálh Nation for the use and benefit of the Members in common. |

shíshálh Nation  
approval for  
Sale of Sechelt  
Lands

4. (1) Except as provided in section 3, no Sechelt Lands may be mortgaged, sold, or otherwise have the title to them transferred, unless the mortgage, sale or title transfer has been first approved in a Referendum by a vote 75% in favour by all the Voters.
- (2) In the event that a Referendum is held under subsection (1), and 50% of those Voters voting in the Referendum supported the mortgage, sale or title transfer, but 75% of all the Voters did not vote in support, then a second Referendum may be held. In the event of a second Referendum under this sub-section, the mortgage, sale or title transfer may be approved by 60% of all the Voters.

Granting of  
Interests in Sechelt  
Land

5. The shíshálh Nation, acting through the Council, may grant leases, licences, permits, easements, rights-of-way or any other interest in the Sechelt Lands that the Council considers desirable and this may be done without the consent of the Voters except where:
  - (a) the grant of interest is for a term exceeding ninety-nine (99) years;
  - (b) the grant of interest is in respect of Sechelt Lands that were previously unimproved.

The granting of any lease, license, permit, easement, right-of-way or other interest in the Sechelt Lands shall require the approval of 2/3 of the members of the Council.

shíshálh Nation  
approval for  
granting of certain  
interests in Sechelt  
Lands

6. (1) No lease, licence, permit, easement, right-of-way or other interest in the Sechelt Lands shall be granted for a term exceeding ninety-nine (99) years or in respect of Sechelt Lands that were previously unimproved unless such grant is first approved in a Referendum by a vote 50% in favour by all the Voters.
- (2) In the event that a Referendum is held under subsection (1), and more than 50% of those Voters voting in the Referendum supported the lease, licence, permit, easement, right-of-way or other interest, but 50% of all the Voters did not vote in support, then a second Referendum may be held. In the event of a second Referendum under this sub-section, the lease, licence, permit, easement, right-of-way or other interest may be approved by 50% of the Voters actually voting.

Legal Surveys 7. All legal surveys carried out on Sechelt Lands shall comply with the provisions of the Canada Lands Surveys Act, R.S.C., 1970, as amended.

Procedure for Referendum 8. The Referendum for the purpose of sections 4 and 6 shall be conducted in the manner provided for in Divisions (4) and (5) of this Part.

### **DIVISION (3) – NATURAL RESOURCES**

Disposition of natural resources 1. Subject to sections 24, 35, 39, 40 and 41 of the Act, shíshálh Nation has full power to dispose of any rights or interests in all Natural Resources on, in and under the Sechelt Lands.

Control of Natural Resources 2. The control over the administration of all natural resources on, in and under the Sechelt Lands is vested in the shíshálh Nation subject to the existing rights thereto, if any, of the Province of British Columbia.

Granting of permits 3. The shíshálh Nation, acting through the Council, may grant permits to cut timber on the Sechelt Lands, or to remove minerals, stone, sand, gravel, clay, soil or other substances from the Sechelt Lands and this may be done without the consent of the Voters except where:

(a) the permit is for a term exceeding five (5) years;

(b) the permit is in respect of Sechelt Lands that were previously in a natural and undeveloped condition.

The granting of any permit under this section shall require the approval of 2/3 of the members of the Council.

shíshálh Nation approval for granting of certain permits

4. (1) No permit to cut timber on the Sechelt Lands or to remove minerals, stone, sand, gravel, clay, soil or other substances from the Sechelt Lands shall be granted for a term exceeding five (5) years or in respect of Sechelt Lands that were previously in a natural and undeveloped condition unless such grant is first approved in a Referendum by a vote 50% in favour by all the Voters.

(2) In the event that a Referendum is held under subsection (1), and more than 50% of those Voters voting in the Referendum supported the permit, but 50% of all the Voters did not vote in support, then a second Referendum may be held. In the event of a second Referendum under this subsection, the permit may be approved by 50% of the Voters actually voting.

Procedure for  
Referendum

5. The Referendum for the purposes of section 4 shall be conducted in the manner provided for in Divisions (4) and (5) of this Part.

## DIVISION (4) - REFERENDUMS AND ELECTIONS

shísháhlh Nation  
Election and  
Referendum Law

1. The Council will enact and keep in force, consistent with any requirements of this Constitution, a shísháhlh Nation Election and Referendum Law that sets out the processes to be followed in shísháhlh Nation Referendums, Elections and By-Elections.
2. The initial shísháhlh Nation Election and Referendum Law must be assented to by a Majority of Voters voting in a Referendum.
3. All amendments to the shísháhlh Nation Election and Referendum Law must be assented to by a Majority of Voters voting in a Referendum.
4. The shísháhlh Nation Election and Referendum Law may not be repealed unless it is replaced by a replacement Election and Referendum law that is assented to by a Majority of Voters voting in a Referendum.
5. Where a conflict exists between a shísháhlh Nation Election and Referendum Law and the Constitution, to the extent of any conflict, the Constitution will prevail.

Voters' List

6. Within twenty five (25) days of his or her appointment, the Electoral Officer will prepare a Voters' List comprised of the names of all Voters.
7. A person whose name does not appear, or does not correctly appear, on the Voters' List and is eligible to be a Voter may have his or her name added to, or changed on, the Voters' List in accordance with the procedures set out in the shísháhlh Nation Election and Referendum Law.
8. The Electoral Officer will, at least ten (10) days prior to the date on which the Election, Referendum or By-Election is to be held, post a final Voters' List in a public area of the Administration Building, and publish it electronically.
9. Any person whose name does not appear on the final Voters' List will not be entitled to vote in the Election, Referendum or By-Election.

Appeals of  
Referendums,  
Elections and By  
Elections

10. In respect of a Referendum, any Voter may deliver a notice of appeal in writing to the Chief Administrative Officer requesting that the Referendum be declared invalid, based on one or both of the following grounds:
  - (a) there was a violation of a provision of this Constitution or the shísháhlh Nation Election and Referendum Law in the conduct of the Referendum that might have affected the result of the Referendum; or

(b) there was a corrupt or fraudulent practice, as defined in the shíshálh Nation Election and Referendum Law, in relation to the Referendum.

11. In respect of an Election or By-Election, any Voter, including a candidate for Council, may deliver a notice of appeal in writing to the Chief Administrative Officer requesting that the Election or By-Election of the Chief or a Councillor be declared invalid, based on one or more of the following grounds:

(a) the person declared elected was not eligible to be a candidate;

(b) the person declared elected was not nominated in accordance with the procedures set out in this Constitution and the shíshálh Nation Election and Referendum Law;

(c) there was a violation of a provision of this Constitution or the shíshálh Nation Election and Referendum Law in the conduct of the Election or By-Election that might have affected the result of the Election or By-Election; or

(d) there was a corrupt or fraudulent practice, as defined in the shíshálh Nation Election and Referendum Law, in relation to the Election or By-Election.

12. All appeals of Referendums, Elections or By-Elections must be filed and heard in accordance with the shíshálh Nation Election and Referendum Law.

#### **DIVISION (5) – PROCEDURE FOR REFERENDUM**

Holding a  
Referendum

1. Where this Constitution or the Act requires questions to be answered by way of Referendum, or where Council considers it advisable to hold a Referendum to answer questions, Council will hold a Referendum by way of a vote.
2. A Referendum must be conducted in accordance with the requirements of this Constitution and the shíshálh Nation Election and Referendum Law.
3. In order to be entitled to vote in a Referendum, a person must be a Voter and be on the final Voters' List on the date of the Referendum.
4. In the case of a Referendum held for the purpose of determining entitlement to membership in the shíshálh Nation pursuant to Division (1), section 5 of this Part, the Referendum must be held within twelve (12) months of an application for registration for entitlement to membership.

5. At least ninety (90) days prior to a Referendum being held, the Council will:
  - (a) set a date for the Referendum; and
  - (b) determine the question or questions to be asked in the Referendum.
6. Unless a different threshold for approval of a question put to Referendum is specified in this Constitution, any question put to Referendum will be approved where a Majority of Voters who cast valid ballots vote “YES” to that question.
7. A second Referendum on any question asked in a Referendum cannot be held for at least thirty (30) days after the first Referendum on that question is held.
8. For greater certainty, a second Referendum on the question of a person’s entitlement to membership in the shíshálh Nation held pursuant to Division (1), section 5 of this Part will be held no earlier than thirty (30) days and no later than twelve (12) months after the first Referendum, unless the first Referendum is found to be invalid pursuant to an appeal brought in accordance with this Constitution and the shíshálh Nation Election and Referendum Law.

**DIVISION (6) – SHÍSHÁLH NATION MONEY**

Sources of shíshálh Nation Revenue money

1. Sources of shíshálh Nation Revenue money include but are not limited to:
  - (a) annual lease revenues;
  - (b) annual equivalent rents arising from pre-payment of leases;
  - (c) fees for permits;
  - (d) interest on investments;
  - (e) interest on loans made from the revenue of the shíshálh Nation;
  - (f) interest on capital funds of the shíshálh Nation;
  - (g) donations to the shíshálh Nation;
  - (h) British Columbia special payment; and
  - (i) administrative fees.

- Expenditure of Revenue Money
2. shíshálh Nation Revenue money shall only be expended in the manner and for the uses provided for in Division (7) of Part II of this Constitution.
- Sources of Capital money
3. Sources of shíshálh Nation Capital money include but are not limited to:
- (a) money from the sale of Sechelt Lands;
  - (b) money from the sale of other capital assets of the shíshálh Nation; and
  - (c) royalties from the sale of non-renewable resources.
- Expenditure of Capital money
4. shíshálh Nation Capital money shall be expended in the manner and for the uses provided for in Division (7) of Part II of the Constitution.
- Control and Management of shíshálh Nation money
5. The shíshálh Nation, acting through its Council, shall be solely responsible for the collection, control and management of both shíshálh Nation Revenue money and shíshálh Nation Capital money.

## **PART II – THE COUNCIL**

### **DIVISION (1) - ELECTION OF COUNCIL**

#### **1. shíshálh Council**

(1) shíshálh Nation Council will consist of four (4) Councillors and one Chief.

#### **2. Term of Office**

(1) The term of office for Chief and Councillors will be three (3) years.

#### **3 Election of shíshálh Council**

(1) The Chief and Councillors of shíshálh Nation will be chosen by Voters by way of a secret ballot Election or By-Election carried out in accordance with this Constitution and the shíshálh Nation Election and Referendum Law.

(2) In order to be able to vote in an Election or By-Election, a person must be a Voter and included on the final Voters' List on the date of the Election or By-Election.

#### **4. Eligibility of Candidates**

(1) To qualify as a candidate for the office of Chief or Councillor, a person must:

(a) qualify as a Voter;

(b) be nominated for that office, in accordance with the procedures set out in this Constitution and the shíshálh Nation Election and Referendum Law; and

(c) comply with all other requirements for qualification as a candidate set out in this Division and the shíshálh Nation Election and Referendum Law, but for greater certainty, the shíshálh Nation Election and Referendum Law cannot disqualify a Voter from being a candidate for the office of Chief or Councillor on the basis of non-residency on Sechelt Lands.

(2) A person may only be a candidate for one of the offices of Chief or Councillor in any Election or By-Election.

#### **5. Requirements to be fulfilled to Take Office**

(1) A candidate who has been elected as Chief or Councillor will swear an oath of office in accordance with the requirements of the shíshálh Nation Election and Referendum Law.

(2) No person elected as Chief or Councillor will be permitted to assume his or her office until he or she has sworn and filed the oath of office and complied

with all other requirements to assume office set out in this Division and the shíshálh Nation Election and Referendum Law.

- (3) If a person elected as Chief or Councillor fails to comply with all requirements to assume office set out in this Division and the shíshálh Nation Election and Referendum Law that failure will be dealt with in accordance with the shíshálh Nation Election and Referendum Law.

## **6. Removals and Vacancies of Council**

- (1) Removals and vacancies from Council will be determined and addressed in accordance with the shíshálh Nation Election and Referendum Law.

## **7. By-Elections**

- (1) By-Elections will be held as required by, and in accordance with, the provisions for By-Elections in this Constitution and the shíshálh Nation Election and Referendum Law.

### **DIVISION (2) – MEETINGS**

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|---------------------------|---|
| Meeting of Council        | 1. An inaugural meeting of the Council shall be held each year in the afternoon of the first Monday after March 1. Thereafter the Council shall meet as it may decide or as provided in this Constitution.  |
| Place of Council Meetings | 2. Meetings of the Council shall take place within the Sechelt Lands.   |
| Notice of special meeting | 3. <ol style="list-style-type: none"><li>(1) A notice of the day, hour and place of a special meeting of the Council, being a meeting other than a statutory, regular or adjourned meetings, shall be given twenty-four (24) hours at least before the time of meeting by posting a copy of the notice at the regular Council meeting place and by leaving one copy for each member of the Council at the place to which he or she has directed notices to be sent. Notice may be waived by unanimous vote of all the members of the Council. Each copy of the notice shall be signed by the Chief.</li><li>(2) Two (2) or more members of the Council may, in writing, request the Chief to call a special meeting.</li><li>(3) Where the Chief, within twenty-four (24) hours after receiving the request, refuses or neglects to call the special meeting to be held within seven (7) days after he or she received the request, or where the Chief is absent, two (2) or more members of the Council may call a special meeting for any purpose they deem necessary and they shall sign the notice.</li></ol> |

Attendance of public at meetings	4. All regular meetings of the Council shall be open to the Members and no eligible person shall be excluded, except for improper conduct. If in the opinion of the Council, the public interest so requires, persons other than Councillors and officers, or persons other than Councillors, may be excluded from a special meeting.
Expulsion	5. The Chief or other person presiding may expel and exclude from a meeting of the Council a person he or she considers guilty of improper conduct.
Quorum of Council	6. A quorum of the Council shall be a majority of the members of the Council.
Majority decision	7. All acts authorized or required by this Constitution to be done by the Council, and all other questions, including adjournment, that may come before the Council shall, except where otherwise provided, be done and decided by a majority of the members of the Council and a record thereof shall be kept for inspection by Members.
Chief to preside at meeting	8. The Chief, if present, shall preside at meetings of the Council. Any member of the Council may preside in committee of the whole.
Conflict of interest	9. A member of the Council shall disclose to the Council any financial interest that he or she has in any matter before the Council and shall not take part in deliberations of the Council on that matter or vote on that matter unless a majority of members present at the meeting agree to allow that member to participate in the discussion and vote on the matter.
Voting	10. Where the votes of the members of the Council then present, including the vote of the Chief or other persons presiding, are equal for and against a question, the question shall be negative, and it shall be the duty of the member presiding to so declare. The same procedure applies in committee of the whole.
Points of order	11. The Chief or the member presiding at a meeting of the Council shall preserve order and decide points of order which may arise, subject to an appeal to the other members of the Council then present.
Appeal	12. (1) On an appeal by a Councillor from the decision of the Chief, the question shall be immediately put by him or her, and decided without debate, "Shall the Chair be sustained?" and the Chief shall be governed by the vote of the majority of the members then present, excluding himself or herself. In the event of the votes being equal, the question shall pass in the affirmative. The names of the members of the Council voting for or against the question shall be recorded in the minutes.

- (2) If the Chief refuses to put the question “Shall the Chair be sustained” the Council shall immediately appoint a member to preside temporarily. He or she shall proceed in accordance with sub-section (1). A resolution or motion carried under this subsection is as binding as if carried under subsection (1).

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| Absence of Chief                      | 13. Where the Chief or the acting Chief, if any, is absent from a meeting of the Council, the members then present shall choose a member to preside. That member has, for the purpose, all the powers and is subject to the same rules as the Chief.   |
| Meeting of the Members                | 14. The Council shall convene at least one meeting of the Members every four (4) months and thirty (30) days’ notice of this meeting shall be posted in a conspicuous place at the offices of the shíshálh Nation. In the event that a meeting of the Members is not held when required by this section, any ten (10) Members shall have the right to present to the Council a petition requesting that a meeting of the Members be convened forthwith and the Council shall give thirty (30) days notice of such meeting within five (5) days of receipt of the petition. |
| Quorum at Meetings of shíshálh Nation | 15. At any properly convened meeting of the shíshálh Nation, a Majority of Voters personally present shall be able to transact all business that comes before the meeting.   |
| Responsibility for Band meetings      | 16. The Council shall have responsibility for all matters concerning the conduct of meetings of the shíshálh Nation.   |
|                                       | 17. (1) In issues determined by the Council to be of great importance to the shíshálh Nation, the Council shall submit a question or questions for determination in a Referendum.  |
|                                       | (2) Without limiting the generality of the foregoing, a Referendum shall be held at which the question will be the settlement of the shíshálh Nation’s comprehensive land claim. At this Referendum the question shall be approved by the affirmative vote of a Majority of Voters.  |

**DIVISION (3) – OFFICERS AND EMPLOYEES**

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|----------------------------|--|
| Powers and duties Of Chief | 1. The Chief is the head and chief executive officer of the shíshálh Nation and shall perform any duties assigned to him or her by this Constitution or by the shíshálh Nation. He or she shall chair all meetings of the Council and the shíshálh Nation. |
|----------------------------|--|

- |                            |   |
|----------------------------|---|
| Acting Chief, temporary    | 2. The Council may appoint one of its members to be acting Chief. He or she has, during the absence, illness or other disability of the Chief, all the powers and is subject to the same rules as the Chief.  |
| Acting Chief, on vacancy   | 3. Where the office of Chief becomes vacant, the Council shall appoint a member to be acting Chief, and he or she shall continue in office until another Chief is elected or appointed.   |
| Officers and employees     | 4. The Council may provide by law for the officers and employees that may be deemed necessary to carry on the good government of the shíshálh Nation and the provisions of this Constitution, and may prescribe their powers, duties and responsibilities, subject to this Constitution.  |
| Terms of employment        | 5. The Council may, in the same or a separate law, or by a collective or other agreement, fix officers' and employees' remuneration and other benefits, hours of work and other conditions of employment, and the manner of appointment, promotion and dismissal.   |
| Termination of employment  | 6. (1) Subject to a contract of employment, the engagement of an employee may be terminated, if engaged on <ul style="list-style-type: none"> <li>(a) a monthly or longer basis, on one month's notice in writing;</li> <li>(b) a weekly basis, on one week's notice; or</li> <li>(c) a daily or hourly basis, on one day's or one hour's notice.</li> </ul> (2) An employee may be dismissed without notice for cause.   |
| Sickness or other benefits | 7. Without restricting the generality of section 5, the Council may by law provide the whole or part of the premium for: <ul style="list-style-type: none"> <li>(a) a contract for medical services provided on a group basis for employees or employees and their dependents;</li> <li>(b) a benefit, accident, sickness or life insurance policy insuring employees of the shíshálh Nation on a group insurance basis against accident, sickness or death;</li> <li>(c) an accident insurance policy insuring members of the Council, on a group insurance basis, against accident while on Official business for the shíshálh Nation.</li> </ul> |

Bonding employees 8. Those employees designated by the Council shall be bonded, for the obligation, in the amount, and with the surety the Council directs. The premium, if any, shall be paid by the shíshálh Nation.

#### **DIVISION (4) – FINANCIAL CONTROLS**

Establishment of bank accounts 1. The Council shall establish separate accounts in a chartered bank, trust company or credit union for:

- (a) shíshálh Nation Revenue money and federal transfer payments;
- (b) shíshálh Nation Capital money.

Signing Officers 2. (1) The Council shall authorize three (3) persons, two (2) of whom shall be members of the Council, to sign cheques and other bills of exchange or transfers drawn on the accounts.

(2) All persons authorized as signing officers shall be bonded.

No expenditure without authorization 3. (1) The Council shall only expend monies or commit itself, by contract or otherwise, to expend monies where such expenditure is authorized by this Constitution and under a shíshálh Nation law or Council resolution.

(2) Any omission by the Council of the procedures provided for in subsection (1) shall not affect the validity of the contract, but a report of the circumstances of that omission shall be given to the Members at the next meeting of the shíshálh Nation.

Budget committee 4. The Council may establish a budget committee, two (2) members of which shall be members of the Council.

Investment of surplus money 5. (1) Money surplus to current needs may be invested in short term interest bearing deposits and the interest so earned shall be considered shíshálh Nation Revenue money.

(2) All expenditures must be in accordance with the budgets approved pursuant to Division (7) of this Part.

(3) An expenditure not provided for in the annual budget of the shíshálh Nation is not lawful.

Year end 6. The year end of the shíshálh Nation shall be March 31.

Financial Statements 7. Within three months after the end of each fiscal year, the Council shall prepare a detailed statement of the financial position of the shíshálh Nation, prepared in conformity with generally accepted accounting principles, and copies thereof shall be made available at the shíshálh Nation office for inspection by Members.

The treasurer

8. (1) The Council may appoint a treasurer, who, in addition to the duties and powers prescribed by the Council, is responsible to the shíshálh Nation:
  - (a) for keeping or supervising the keeping of all funds and securities of the shíshálh Nation;
  - (b) for receiving all money paid to the shíshálh Nation;
  - (c) for disbursing the shíshálh Nation funds in accordance with the procedures laid down by the law of the Council;
  - (d) for keeping or supervising the keeping of a full account of all money received, receivable, disbursed and expended by him or her or by another person for the shíshálh Nation;
  - (e) for keeping or supervising the keeping of a full account of all assets and liabilities, and of all transactions affecting the financial position of the shíshálh Nation;
  - (f) for preparing interim financial statements under any local government regulations; and
  - (g) for compiling and supplying information on financial affairs required by the Government of Canada or, if applicable, the Province of British Columbia.
- (2) The treasurer may inspect the records of and direct an officer of the shíshálh Nation or of an administrative body handling local government funds, in matters involving his or her responsibility.
- (3) It is a good defence to any action brought against the treasurer for unlawful expenditure of shíshálh Nation funds if it is proved that he or she, in writing, over his or her signature, warned the Council that in his or her opinion the expenditure would be unlawful.

- (4) If the Council does not appoint a treasurer as aforesaid, the Council shall be responsible for carrying out the duties listed in subsection (1) hereof.

### **DIVISION (5) – PASSAGE OF LAWS**

- |                                   |    |   |
|-----------------------------------|----|---|
| Procedure law                     | 1. | <ol style="list-style-type: none"><li>(1) The Council shall by law regulate its meetings and their conduct.</li><li>(2) A law relating to the procedure of the Council shall not be altered except by law passed at a regular meeting of the Council pursuant to a notice in writing given and openly announced at an earlier regular meeting.</li><li>(3) A law relating to procedure may include provision for:<ol style="list-style-type: none"><li>(a) the manner and extent for a reading of a law; and</li><li>(b) suspension of the rules of procedure to permit two or more readings at one meeting of the Council.</li></ol></li></ol> |
| Acts require law or resolution    | 2. | An act or proceeding of the Council is not valid unless it is authorized or adopted by shíshálh Nation law, where so required, or otherwise by resolution at a meeting of the Council.  |
| Laws: procedure law               | 3. | Subject to this Division, the Council shall by law provide for the procedure to be followed in passing laws including a procedure for challenging those laws. Every law passed by the Council shall be reconsidered not less than one day after third reading and before adoption.  |
| Approval or assent                | 4. | Where under this Constitution a law requires the assent of the Voters, the assent shall be obtained after the law has been given third reading by the Council and before it is adopted.   |
| Return of law for reconsideration | 5. | <ol style="list-style-type: none"><li>(1) The Chief may, at any time within one month after its adoption, return for reconsideration a law, resolution or proceeding of the Council which has not had the assent of the Voters, has not been reconsidered by the Council under subsection (3) or has not been acted on by an officer, employee or agent of the shíshálh Nation.</li><li>(2) The Chief may state his or her objections to the Council. The secretary of the meeting shall record in the minute book the objections, suggestions or amendments of the Chief.</li></ol>  |

- (3) The Council shall, as soon as convenient, consider the objections, and either reaffirm or reject the law resolution or proceeding, and if rejected, it is deemed to be repealed and is of no force or effect whatever.
  - (4) The rejected law, resolution or proceeding shall not be reintroduced to the Council for six (6) months, except with the unanimous consent of the Council.
  - (5) The conditions which applied to the passage of the original law, resolution or proceeding apply to its rejection.
- Law to be signed      6.    Where a law is adopted by the Council, it shall be signed by the Chief or other member presiding at the meeting when it was adopted.
- Resubmitting  
Rejected law      7.    If a law which requires the assent of the Voters does not receive their assent, no other law for the same purpose shall be submitted to the Voters within a period of six (6) months from the last submission.
- Effective date of law    8.    A law adopted by the Council is in force from the date of the adoption or from a subsequent date fixed by the law.
- Register of Band  
Laws      9.    The Council shall keep at the shíshálh Nation office a register of all Band laws, which register shall be available for inspection during normal business hours.
- Disqualified member  
present      10.    A law, resolution or other proceeding of the Council shall not be set aside or declared invalid by reason only that a person sitting or voting as a member of the Council is not qualified for office, was not qualified at the time of his Election or subsequent to his or her Election ceased to be qualified or became disqualified.
- Effect of invalid  
election on status      11.    Where the Election of the Council has been set aside or declared invalid, the Election of a Councillor has been set aside, the office of a Councillor has been disclaimed, or a Councillor has been declared disqualified from holding office, a law, contract or other proceeding adopted, made or taken by the Council prior to the order, disclaimer or declaration shall not, if otherwise within the jurisdiction and powers of the Council, be invalidated or attacked by reason only of the order, disclaimer or declaration.

## **DIVISION (6) – FEDERAL TRANSFER PAYMENTS**

- |   |   |
|---|---|
| Federal Transfer payments, operations and maintenance | 1. Pursuant to section 33 of the Act, the shíshálh Nation shall negotiate and enter into agreements with the Minister to transfer funds for operations and maintenance by way of grants over such period of time and subject to such terms and conditions as are specified in the agreements, and the elements of such agreements should embody the principles of cost-sharing, volume and price. |
| Federal Transfer payments, capital expenditures       | 2. Pursuant to section 33 of the Act, the shíshálh Nation shall negotiate and enter into agreements with the Minister to transfer capital moneys by way of grant over such period of time and subject to such terms and conditions as are specified in the agreements and the elements of such agreements should embody the principles of cost-sharing, volume and price.                         |

## **DIVISION (7) – BUDGETS**

- |                                      |  |
|--------------------------------------|--|
| Band budgets                         | 1. Prior to February 28, the budget committee shall present to the Council the shíshálh Nation budget for the ensuring fiscal year.  |
| Budget for Band Revenue              | 2. The shíshálh Nation Revenue budget shall show sources of shíshálh Nation Revenue money as indicated in Division (6) of Part I and expenditures in detail as indicated in section 6 hereof.  |
| Budget for shíshálh Capital          | 3. The shíshálh Nation Capital budget shall show sources of shíshálh Nation Capital money as indicated in Division (6) of Part I and expenditures in detail as indicated in section 7 hereof.  |
| Budget for Federal Transfer payments | 4. (1) The budget for federal transfer payments, determined under Division (6) section 1 of this Part and the expenditures in detail as indicated in section 8 hereof.<br><br>(2) The budget for Federal Transfer payments, capital, shall show the amount determined under Division (6) section 2 of this Part and expenditures in detail as indicated in section 9 hereof. |
| Approval of shíshálh Nation budgets  | 5. (1) Upon approval by the Council, the budget shall be placed before the Voters for review and amendment at a special general meeting, such meeting to be held no later than the last day of February.   |

- (2) Subsequent to the special general meeting provided for in subsection (1) but no later than March 15, the Council shall ratify the budget for the ensuing year.
- (3) Changes to the budget must be presented to the Voters at a special general meeting for review and amendment and subsequent to that meeting the Council shall ratify the amended budget.

Band Revenue -  
Expenditures

- 6. (1) shíshálh Nation Revenue money expenditures include but are not limited to:
  - (a) administration of shíshálh Nation programs;
  - (b) contributions to the shíshálh Nation housing program;
  - (c) community services including food, fish, emergency assistance, burials and recreation grants;
  - (d) jointly funded programs;
  - (e) supplements to shíshálh Nation programs;
  - (f) loans or grants to Members for the purposes of housing or economic development;
  - (g) economic development;
  - (h) shíshálh Nation planning;
  - (i) charitable donations;
  - (j) provision for asset replacement; and
  - (k) for any other purpose that in the opinion of the Council is for the benefit of the shíshálh Nation.
- (2) In addition to the uses itemized in subsection (1), a provision for contingencies in an amount not exceeding five percent (5%) of the estimated annual shíshálh Nation Revenue may be provided for in the annual budget.

Band Capital  
expenditures

- 7. shíshálh Nation Capital money expenditures include but are not limited to:
  - (a) construction or improvement of roads, bridges and water courses on Sechelt Lands;

- (b) construction or improvement of outer boundary fences on Sechelt Lands;
- (c) purchase of land for use by the shíshálh Nation as new shíshálh Nation lands or as an addition to Sechelt Lands;
- (d) purchase for the shíshálh Nation of the interest of a Member in the Sechelt Lands;
- (e) purchase of vehicles, machinery, and other equipment for the shíshálh Nation;
- (f) construction on or in connection with the Sechelt Lands of such improvements or work as in considers will be of permanent value to the shíshálh Nation or will constitute a capital investment;
- (g) loans to Members on terms deemed suitable by the Council for the purpose of promoting the livelihood of the shíshálh Nation; and
- (h) for any other purpose that in the opinion of the Council is for the benefit of the shíshálh Nation is deemed in its nature to be a capital expenditure.

Federal Transfer payments, operations and maintenance expenditures

- 8. (1) Expenditures of money transferred pursuant to section 1 of Division (6) of this Part include but are not limited to:
  - (a) administration of shíshálh Nation programs;
  - (b) operation of shíshálh Nation-owned schools and education support services;
  - (c) contractual payments to the local school board in accordance with the terms and conditions of the Federal/Provincial Master Tuition Agreement;
  - (d) payments as necessary for provision of local government services;
  - (e) shelter and special needs payments to eligible Members;
  - (f) job creation;
  - (g) joint-funded programs;
  - (h) payments of health premiums to the Provincial Government;

- (i) shíshálh Nation planning;
- (j) economic development;
- (k) Sechelt Lands and estates; and
- (l) for any other purpose that in the opinion of the Council is for the benefit of the shíshálh Nation.

(2) Payments required under subsections (1)(b), (c), (e) and (h) are to be considered a mandatory budget requirement and cannot be circumvented or eliminated by procedures set out in section 5 hereof.

(3) Expenditures which are capital in nature cannot be made from this money.

Federal Transfer payments, capital expenditures

9. (1) Expenditures of money transferred pursuant to section 2 of Division (6) of this Part include but are not limited to:
- (a) transfers to the shíshálh Nation housing program;
  - (b) construction or improvement of roads, bridges and water courses on Sechelt Lands;
  - (c) construction or improvement of outer boundary fences on Sechelt Lands;
  - (d) purchase of land for use by the shíshálh Nation as new Sechelt Lands or as an addition to Sechelt Lands;
  - (e) purchase for the shíshálh Nation of the interest of a Member in Sechelt Lands;
  - (f) purchase of vehicles, machinery and other equipment for the shíshálh Nation;
  - (g) construction on or in connection with Sechelt Lands of such improvements or works as it considers will be of permanent value to the shíshálh Nation or will constitute a capital investment;
  - (h) payment to local school district for negotiated share of capital construction;
  - (i) transfers to special reserves for future capital projects; and

(j) for any other purpose that in the opinion of the Council is for the benefit of the shíshálh Nation and is deemed in its nature to be a capital expenditure.

(2) Transfers pursuant to subsection 1(a) are to be considered a mandatory budget requirement and cannot be circumvented or eliminated by the procedures set out in section 5 hereof.

Federal Transfer  
Payments - mandatory  
programs

10. With respect to section 8 and 9 hereof, the shíshálh Nation shall make expenditures only as may be permitted by, and subject to the terms mandatory programs and conditions of, agreements which may be entered into with Her Majesty the Queen in right of Canada for the provision of federal transfer payments.

### **DIVISION (8) – BORROWING**

shíshálh Nation  
may obtain  
loans

1. (1) The shíshálh Nation may obtain loans individually not exceeding two million five hundred thousand (2,500,000) dollars nor collectively at any time exceeding ten (10) million dollars.
- (2) The loans shall be for either local municipal works including but not limited to roads, sewers, water systems and community buildings or economic development projects.
- (3) The loans shall be number consecutively.
- (4) Loans shall be amortized over a period of less than three (3) years or greater than thirty (30) years with respect to municipal works loans and no greater than twenty (20) years in respect to economic development loans. Notwithstanding the provisions of this subsection, the shíshálh Nation may obtain short term demand loans as may be approved at a meeting of Members.
- (5) Interest payable annually on municipal works loans shall be equivalent to the prevailing rates for loans for such purposes but, if financed internally, shall be repaid at rates set by the Council.

Loan authorization  
law

2. (1) Upon completion of all necessary technical studies, including alternatives considered and design criteria relating to the proposed project, the Council shall adopt a loan authorization law for the specific project subject to the assent of the Voters.
- (2) The law shall provide for the following:

- (a) the amount of debt;
- (b) the amount of unused credit prior to paragraph (a);
- (c) the term of the debt and the interest rate applicable;
- (d) the purpose of the proposed work;
- (e) the time schedule of the project;
- (f) the source or sources of repayment
- (g) assurances that the works meet all legislation and construction codes required by each body of competent jurisdiction; and
- (h) authorization for creation of a sinking fund into which all related funds are deposited.

Investment of funds 3. Money in a sinking fund which cannot immediately be applied against the debt because no part of the debt or obligation is yet payable, may be invested or reinvested by the Council in:

- (a) securities of Canada or a province;
- (b) securities guaranteed for interest and principal by Canada or a province;
- (c) investments guaranteed by a chartered bank; and
- (d) deposits in or evidence of debt of a credit union or a trust company.

Sources of funds for debt retirement 4. Sources of debt retirement funds include but are not limited to

- (a) special levy on the Voters;
- (b) transfer allocations from Federal Government;
- (c) transfers from shíshálh Nation Revenue money;
- (d) transfers from shíshálh Nation Capital money;
- (e) payments from the profits or net cash flow of an economic development project; and
- (f) a combination of the foregoing.

- Comprehensive Loan authorization law 5.
- (1) Instead of a loan authorization law for one purpose, the shísháhl Nation Council may adopt a comprehensive loan authorization law to borrow money to carry out works and services during a period, not exceeding ten (10) years, determined by the Council.
  - (2) The total amount proposed to be borrowed under the law must have the assent of the Voters to a question setting out the dates of commencement and termination of the period, the total amount proposed to be borrowed under the law and the works and services determined by the Council.
  - (3) the question may be in the following or similar form:
 

Do you assent to the Council having the power, during a (number of years in period) year period commencing on \_\_\_\_\_ (month, day, 19\_\_, to adopt laws for borrowing, from time to time, of money not to exceed a total of (number of dollars proposed to be borrowed) dollars to carry out the following projects: (List the works and services and the money to be allocated for each.)?
  - (4) The total money authorized to be borrowed by law shall not exceed the amount in the question.
  - (5) The Council may, by law adopted by 2/3 of the members and with the assent of the Voters, vary the works services and allocations.
- Handling of loan proceeds 6.
- (1) Money drawn under each loan authorization law shall be deposited to an account in a savings institution and money not immediately required may be invested as detailed in section 3 hereof.
  - (2) Interest earned under subsection (1) shall be considered money relating to the loan.
  - (3) Any surplus remaining after completion of the project may be
    - (a) transferred to the sinking fund authorized in the law; or
    - (b) applied against the loan firstly in payment of any interest accrued since the date of the loan advance and then to reduce the principal amount of the debt.
- Separate accounting 7. Separate accounting shall be made of all activities relating to each loan and its related sinking fund.

Use of loan for other purposes

8. Use of the loan or the sinking fund related to the loan for any purposes other than authorized by the law by any member of Council or its employees or agents shall cause that individual or individuals to be personally liable for the amount.
9. The Council may obtain loans as necessary for working capital for operational purposes provided that such loans are fully repaid within twelve (12) months.

#### **DIVISION (9) – COMPREHENSIVE CLAIM SETTLEMENT**

1. (1) The monetary component of any settlement of the shíshálh Nation's comprehensive land claim shall be deposited in a fund to be called the shíshálh Prosperity Fund.  
  
(2) shíshálh Prosperity Fund investment shall be restricted to government guaranteed securities and Schedule "A" chartered bank acceptances.
2. The annual interest earned on the shíshálh Prosperity Fund shall be allocated on each anniversary of the establishment of the shíshálh Prosperity Fund as follows:
  - (1) 30% shall be reinvested in the shíshálh Prosperity Fund;
  - (2) 40% shall be deposited to a fund to be called the shíshálh Dividend Fund;
  - (3) 20% shall be deposited to a fund to be called the shíshálh Economic Development Fund;
  - (4) 10% shall be deposited to the shíshálh Nation Revenue account.
3. (1) On each anniversary date of the establishment of the shíshálh Property Fund, the entire amount of the shíshálh Dividend Fund shall be distributed per capita to the Members.  
  
(2) A Member shall be entitled to the dividend described in subsection (1) if his or her name appears on the Membership List sixty (60) days prior to the distribution date.  
  
(3) Dividends payable to Members who are minors shall be deposited in a separate trust account and invested only in government guaranteed securities. The dividend credited to a minor, together with accrued interest, shall be disbursed to the minor on his or her 18<sup>th</sup> birthday.

4. (1) Annual expenditures from the shíshálh Economic Development Fund shall be limited to 50% of the balance of the Fund.

(2) The Council may authorize expenditures from the shíshálh Economic Development Fund for the following purposes of:

(a) investment in share capital of private and public companies;

(b) investment in conventional secured mortgage loans;

(c) secured business loans;

(d) investment in joint ventures;

(e) for any other activity deemed by the Council to be economically beneficial to the shíshálh Nation or Members.

5. Proceeds from the resources sharing component of any comprehensive claim settlement shall be deposited to the shíshálh Nation Capital account and expended in accordance with section 4 hereof.

#### **DIVISION (10) – AUDITOR**

Auditor

1. (1) The Council shall appoint an auditor to audit the accounts and transactions of the shíshálh Nation and of every administrative body, trust or corporation handling Band money, or Federal Transfer payments, for which no statutory audit provision is made.

(2) The auditor shall be a member, or a partnership whose partners are members in good standing of the Canadian Institute of Chartered Accountants, or the Certified General Accountants Association of British Columbia.

(3) The Council shall notify, in writing, the auditor and the Governor in Council promptly of each appointment and termination of an auditor.

(4) Where, in the opinion of the Governor in Council, an auditor has discharged his or her duties in a negligent manner, he or she may require the Council to dispense with the auditor's services and to appoint another auditor.

(5) Termination is not effective until a successor is appointed.

Auditor may appeal termination

2. (1) Where the engagement of an auditor is terminated, the auditor within one month of notification may appeal in writing from the Council's decision to the Governor in Council who may confirm or set aside the termination. The auditor shall file a copy of his or her notice of appeal with the Council.
- (2) The Council shall not appoint another auditor until the time allowed for an appeal by the auditor has elapsed or, if an appeal has been made, until the appeal has been dealt with.

Failure to appoint an auditor

3. Where the Council fails or neglects to appoint an auditor, the Governor in Council may, on one month's notice to the Council of his or his intention to do so, appoint an auditor. The Governor in Council may fix the remuneration to be paid to the appointee by the shíshálh Nation and may limit the duration of the appointment.

Duties of auditor

4. (1) The auditor shall make an examination that enables him or her to report to the Voters under this section.
- (2) The auditor has a right of access in all times to every record, instrument, account and any other component of the financial reporting system of the shíshálh Nation or of any other administrative body handling shíshálh Nation affairs or money.
- (3) The auditor is entitled to require from members of the Council or any other administrative body, from officials and employees of the shíshálh Nation, or any other administrative body, any information or explanation necessary to perform his or her duties. Every Council member, official or employee and every member or servant of any other administrative body handling shíshálh Nation Revenue or shíshálh Nation Capital money or federal transfer payments shall make available all necessary records referred to in subsection (2) necessary for an audit or required by the auditor, and shall give him or her every reasonable facility and furnish full information and explanations about the affairs of the shíshálh Nation or administrative body necessary for the performance of his or her duty.
- (4) The auditor shall submit a report to the Council on the annual financial statements for the shíshálh Nation, and any other administrative body. The Council shall provide a copy of this report to the Governor in Council or the Minister as the case may be.

- (5) He or she shall state in his or her report whether his or her examination included a general review of accounting procedures and test of accounting records and other supporting evidence he or she considered necessary under the circumstances and whether in his or her opinion the financial statements present fairly the financial position of the Band, and other administrative bodies at the end of their respective fiscal years, and the results of their operations for the year then ended, in accordance with generally accepted accounting principles applied on a basis consistent with that of the previous year. He or she shall separately report each disbursement, expenditure or other transaction lacking proper authority under this Constitution. He or she shall further state that his or her review was made in accordance with generally accepted auditing standards.
- (6) The annual financial statements shall be presented in form and content usual to the accountability requirements of the Band with regards to shíshálh Nation Revenue and Capital money and the accountability requirements of the Federal Government with regards to the Federal Transfer payments for operation and maintenance money and capital money.
- (7) The annual financial report is to be completed by the 30tgh day of June each year for the preceding fiscal year.

## PART III – LAWS

### DIVISION (1)

Note: The powers in sections labelled with an \* have been transferred to the Sechelt Indian Government District by Order-in-Council P.C. 1987-2125.

Access to and residence on Sechelt Lands

1. The Council shall have the right to make laws in relation to access to, and residence on, Sechelt Lands, subject to:
  - (a) the following persons having the right to reside on Sechelt Lands:
    - (1) lessees;
    - (2) permittees;
    - (3) Members, subject to the availability of housing within the shíshálh Nation subdivisions, and subject to the allocation of a residential lot pursuant to Part I Division 2, section 2 of this Constitution
    - (4) lawfully married husbands or wives of persons referred to in subsection (a)(3).

All other persons may only reside on Sechelt Lands pursuant to a law of the Council; and

- (b) the following persons having the right of access to Sechelt Lands:
  - (1) lessees and his or her invitees;
  - (2) permittees and those granted a right of access under the permit;
  - (3) Members;
  - (4) lawfully married husbands or wives of persons referred to in subsection (b)(3);
  - (5) a person who is authorized by a government body or any other public body established by or under an Act of Parliament, an Act of the Legislature of British Columbia or a law of the Council to perform a public function, establish, operate or administer a public service, construct or operate a public installation or conduct a technical survey thereon;

- (6) a member of the public seeking access to the public facilities and installations situated on Sechelt Lands; and
- (7) a person authorized in writing by, or pursuant to a law of, the Council.

Zoning and land use \*2.  
planning in respect  
of Sechelt Land

The Council shall have the right to make laws in relation to zoning and land use planning in respect of Sechelt Lands subject to:

- (a) the Council adopting such provisions of the municipal Act of British Columbia as it may require for the purposes of zoning and land use planning in respect of Sechelt Lands. Without limiting the generality of the foregoing, the Council, by law, may provide for a separate community plan in respect of those areas of the Sechelt Lands occupied only by Members; and
- (b) such provisions and laws including and containing standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time. Without limiting the generality of the foregoing, such provisions and laws shall include:
  - (1) procedures for the adoption and amendment of zoning laws and development laws, including the holding of public hearings on the establishment, amendment or repeal of such laws or plans; and
  - (2) the procedures for the issuance of building and development permits, including the right of appeal to an independent board as appointed by the Council.

Expropriation, for 3.  
community purposes,  
of interests in Sechelt  
Lands by the  
shíshálh Nation

The Council shall have the right to make laws in relation to expropriation, for community purposes, of interests in Sechelt Lands by the Band, subject to the following:

- (a) where laws made under section 4 are in force, the shíshálh Nation may, subject to and in accordance with those laws, for community purposes expropriate any right or interest in its land or in any building situated thereon, except for a right or interest of her Majesty the Queen in right of Canada or British Columbia;
- (b) the right of the shíshálh Nation to expropriate pursuant to this Division does not restrict any right that the shíshálh Nation has to acquire by mutual agreement, rights or interests in land or buildings;

- (c) the shíshálh Nation shall, subject to and in accordance with laws made under section 4, pay compensation to holders of rights or interests expropriated pursuant to this Division;
- (d) the Council shall make fair and reasonable laws respecting substantive or procedural aspects of expropriations permitted by this Part, which shall include, without limiting the generality of the foregoing, laws respecting:
  - (1) procedures governing expropriation, including the taking of possession, compulsory taking of possession and transfer of title;
  - (2) entitlement to compensation, determination of the amount of compensation and the method of payment of compensation;
  - (3) contesting or disputing
    - (i) the right of the shíshálh Nation to expropriate and
    - (ii) the amount of compensation awarded to the expropriated party; and
  - (4) rights of appeal to an independent board as appointed by the Council; and
- (e) such laws shall include and contain standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time.

Use, construction  
maintenance, repair  
and demolition of  
buildings and  
structures on shíshálh  
Lands

- \*4. The Council shall have the right to make laws in relation to use, construction, maintenance, repair and demolition of buildings and structures on Sechelt Lands, subject to:
  - (a) the Council adopting such provisions of the Municipal Act of British Columbia as it may require for the purpose of making laws concerning the use, construction, maintenance, repair and demolition of buildings and structures on Sechelt Lands; and
  - (b) such provision and laws including and containing standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time. Without limiting the generality of the foregoing, the Council shall adopt the National or Provincial Codes with respect to building, electrical energy, gas, fire services and other matters related to the exercise of it authority set out herein.

- Taxation for local purposes, of interest in Sechelt Lands, and of occupants and tenants of Sechelt Lands, including assessment, collection and enforcement procedures and appeals relating thereto
- \*5. The Council, in the exercise of its taxation powers, shall have the right to make laws providing for taxation, for local purposes, of interests in Sechelt Lands, and of occupants and tenants of Sechelt Lands in respect of their interest in those lands, including assessment, collection and enforcement procedures and appeals relating thereto, subject to:
- (a) the Council adopting such provisions of the laws of British Columbia, as it may require, in respect of such taxation;
  - (b) such provisions and laws including and containing standards and rights at least equivalent to those prevailing from time to time in the Province of British Columbia. Without limiting the generality of the foregoing, such provisions and laws shall include procedures for the assessment and collection of taxes, the enforcement of laws, and appeals relating thereto;
  - (c) there being no law concerning the taxation of tenants on Sechelt Lands unless the Province of British Columbia has either withdrawn from such taxation or has suspended its right to tax those tenants; and
  - (d) the restriction that no law so made by the Council shall have the effect or purpose of imposing an income tax on those who reside on, are occupants of, or tenants on, Sechelt Lands.
- Administration and management of property belonging to the shíshálh Nation
6. The Council, in exercise of its administration and management powers, shall have the right to make fair and reasonable laws with respect to the control and management of property belonging to the shíshálh Nation..
- Preservation and management of natural resources on Sechelt Lands
7. The Council shall have the right to make laws providing for the preservation and management of natural resources on Sechelt Lands, subject to:
- (a) such laws containing and including standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time. Without limiting the generality of the foregoing, such law shall include:
    - (1) procedures for the operation of resource development by application to, and permit by the Council, including the holding of public hearings related thereto; and
    - (2) procedures for the appointment of a shíshálh Nation inspector for resource development; and

(b) the shíshálh Nation authority as set out in Division 3 of Part I of this Constitution.

Preservation, protection and management of fur-bearing animals, fish and game on Sechelt Lands

8. The Council, by law, may provide for the shíshálh to enter into contracts or other mutually acceptable arrangements for joint management with other jurisdictions in respect of the preservation, protection and management of fur-bearing animals, fish and game on Sechelt Lands.

Public order and safety on Sechelt Lands

\*9. The Council shall have the right to make fair and reasonable laws for the protection of public order and safety on Sechelt Lands, including those for the control of noise, animals, waste disposal and places of amusement. Such provisions and laws, particularly with respect to waste disposal, shall include and contain standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time.

Construction, maintenance and management of roads and the regulation of traffic on Sechelt Lands

\*10. The Council shall have the right to make laws in relation to construction, maintenance and management of roads and the regulation of traffic on Sechelt Lands, subject to:

- (a) the Council adopting such provisions of the laws of the Province of British Columbia and regulations ancillary thereto as it may require in respect of the construction, maintenance and management of roads and the regulation of traffic on Sechelt Lands; and
- (b) such provisions and laws including and containing standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time.

Operation of businesses, professions and trades on Sechelt Lands

\*11. The Council shall have the right to make laws in relation to the operation of businesses, professions and trades on Sechelt Lands, subject to:

- (a) the Council adopting such provisions of the Municipal Act of British Columbia as it may require in respect of the operation of businesses, professions and trades on Sechelt Lands; and
- (b) such provisions and laws including and containing standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time. Without limiting the generality of the foregoing, such provisions and laws shall include:

- (1) procedures for the licencing of businesses, imposition of licence fees, and collection of licence fees; and
- (2) classification of business according to business type.

Prohibition of the sale, barter, supply manufacture or possession of intoxicants on Sechelt Lands and any exceptions to a prohibition of possession

12. The Council shall have the right to make laws prohibiting the sale, barter, supply manufacture or possession of intoxicants on Sechelt Lands. A law may not be made under this section unless it is first assented to by a Majority of the Voters who voted at a special meeting of the shíshálh Nation called for the purpose of considering the law.

Imposition on summary conviction of fines or imprisonment for the contravention of any law made by the Council

\*13. The Council shall have the right to make laws in relation to the imposition on summary conviction of fines or imprisonment for the contravention of any law made by the Council, subject to:

the law of the Council specifying a maximum fine or a maximum term of imprisonment, or both, the maximum fine not exceeding \$2,000.00 and the maximum term of imprisonment.

\* NOTE: Power is transferred only in relation to laws made pursuant to sections 2, 4, 5, 9, 10, 11 and 18 of this Division.

Devolution, by testate or intestate succession, of real property of Members on Sechelt Lands and personal property of Members ordinarily resident on Sechelt Lands

14 The Council shall have the right to make laws in relation to devolution, by testate or intestate succession, or real property of Members on Sechelt Lands and personal property of Band Members Ordinarily Resident on Sechelt Lands subject to:

- (a) The Council adopting such laws of the Province of British Columbia as it may require, concerning the devolution, by testate or intestate succession, or real property of Members on Sechelt Lands and personal property of Members Ordinarily Resident on Sechelt Lands;
- (b) no such law coming into effect until the first day of April, 1988;
- (c) any such law providing that, in the event of intestacy, the administrator of the estate shall be appointed by the Council; and

- (d) such laws including and containing standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time. Without limiting the generality of the foregoing, such laws shall include:
- (1) procedures for the granting of administration and amendments required thereto;
  - (2) designation of powers, responsibilities, obligations and liabilities of administrators and requirement for security related thereto;
  - (3) provisions relating to the devolution of estates;
  - (4) procedures for the appointment of an administrator by the Council;
  - (5) provisions with respect to insolvent estates; and
  - (6) provisions with respect to rules of law, legal procedures, evidence and appeals with respect to the administration of estates.

Financial administration of the shíshálh Nation

15. The Council shall have the right to make fair and reasonable laws with respect to the financial administration of the band for the purpose of implementing the shíshálh Nation's authority as set out in Division 4, Division 6 and Division 7 of Part II of the Constitution.

Conduct of shíshálh Nation Elections and Referendums

16. The Council shall have the right to make fair and reasonable laws with respect to the conduct of Elections and Referendums for the purpose of implementing the shíshálh Nation's authority as set out in Divisions (4) and (5) of Part I and Division (1) of Part II of the Constitution.

Creation of administrative bodies and agencies to

17. The Council shall have the right to make laws to create administrative bodies and agencies to assist in the administration of the affairs of the shíshálh Nation for the purpose of implementing the shíshálh Nation's authority as set out in the Constitution.

assist in the administration of the affairs of the shíshálh Nation

Matters related to the good government of the shíshálh Nation, its Members or Sechelt

- \*18. The Band Council shall have the right to make fair and reasonable laws with respect to matters related to the good government of the shíshálh Nation, its Members or Sechelt Lands for the purpose of implementing the shíshálh Nation's authority as set out in the Constitution.

## Lands

- \* NOTE: Power transferred only in relation to good government of Sechelt Lands.
19. The Council shall have the right to make laws in relation to health services on Sechelt Lands. Such laws shall include and contain standards and rights at least equivalent to those prevailing in the Province of British Columbia from time to time.