


**TOQUAHT NATION GOVERNMENT**

**PUBLIC WORKS AND SERVICES ACT**

**TNS 4/2018**



This law enacted on May 8<sup>th</sup>, 2018

Signed   
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Anne Mack, ḥaʔwił of the Toquaht Nation

DEPOSITED IN THE  
REGISTRY OF LAWS AND  
OFFICIAL RECORDS

ON 2018/05/08



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Signature of Law Clerk



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## PREAMBLE

As a treaty first nation, the Toquaht Nation assumes responsibility for providing public works and services on Toquaht lands and Toquaht foreshore. The Toquaht Nation wishes to ensure that core services are provided to Toquaht citizens and persons ordinarily resident or operating on Toquaht lands or Toquaht foreshore and that any services provided for or on behalf of the Toquaht Nation are provided efficiently, effectively and fairly.

The Toquaht Nation also wishes to ensure that any waste generated on Toquaht lands or Toquaht foreshore, including sewage, garbage and recycling, is disposed of in an appropriate manner, consistent with public health and safety standards.

To assist with realizing these goals, the Toquaht Nation wishes to establish rules governing the provision of sanitary and storm sewer services, potable water and fire protection services, garbage and recycling collection services and other services provided for or on behalf of the Toquaht Nation, including entitlement to and fees for those services.

The Toquaht Nation adopts this Act based on these values.



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## PART 1 - INTRODUCTORY PROVISIONS

### Short title

**1.1** This Act may be cited as the Public Works and Services Act.

### Executive oversight

**1.2** The member of the Executive holding the lands, public works and environmental protection portfolio is responsible for the executive oversight of this Act.

### Application

- 1.3** (a) This Act is enacted under
- (i) 13.27.1 of Chapter 13 Governance of the Maa-nulth Treaty,
  - (ii) section 3.2(w) of the Constitution, and
  - (iii) section 3.1(a)(iii) of the Foreshore Agreement.
- (b) This Act
- (i) establishes, and regulates the provision of, certain core Toquaht services, namely
    - (A) the Toquaht sewer service,
    - (B) the Toquaht water service,
    - (C) the Toquaht garbage collection and recycling service, and
    - (D) the Toquaht internet service, and
  - (ii) delegates law-making authority to the Executive to
    - (A) regulate any aspect of the core Toquaht services not addressed in this Act, and
    - (B) establish, and regulate the provision of, any other Toquaht service.
- (c) Unless expressly provided otherwise, this Act does not apply to the Toquaht Nation as represented by the Toquaht government.

### Definitions

**1.4** In this Act,

“applicant” means, as applicable, a person who submits an application under section 2.2, 2.12, 2.17, 3.2, 3.11 or 3.16;

“building official” has the meaning given to that term in the Building and Development Authorization Act;

“core Toquaht service” means a Toquaht service referred to in section 1.3(b)(i);

“construction waste” means waste resulting from the construction or renovation of a building or structure;

“curb valve” means a shut off valve installed on a water connection by or on behalf of the Toquaht Nation;

“director” means the director of lands, public works and resources;

“flankage” means, as applicable, in relation to a parcel of Toquaht lands or Toquaht foreshore that abuts the Toquaht sewer system or Toquaht water system along more than one boundary, the boundary that abuts the Toquaht sewer system or Toquaht water system and has the greatest length;

“frontage” means, as applicable, in relation to a parcel of Toquaht lands or Toquaht foreshore that abuts the Toquaht sewer system or Toquaht water system,

- (a) the boundary that abuts the Toquaht sewer system or Toquaht water system, if the parcel only abuts the Toquaht sewer system or Toquaht water system along one boundary, or
- (b) the boundary that abuts the Toquaht sewer system or Toquaht water system and has the least length, if the parcel abuts the Toquaht sewer system or Toquaht water system along more than one boundary;

“garbage” means solid waste other than

- (a) recycling, or
- (b) a material or substance referred to in section 4.9(c);

“garbage and recycling fee” means a fee in the amount prescribed under section 4.7(b);

“garbage bin” means a garbage bin provided under section 4.5(a);

“interest holder” means,



(a) in relation to Toquaht lands, a person registered in the lands registry office or land title office as the holder of the interest in, or licence in relation to, those Toquaht lands, and

(b) in relation to Toquaht foreshore, a person who holds an interest in, or licence in relation to, a parcel of Toquaht foreshore;

“internet connection application” means an application under section 5.2;

“internet connection fee” means a fee in the amount prescribed under section 5.2;

“internet disconnection application” means an application under section 5.8;

“internet extension” means an extension of the Toquaht internet works under section 5.6;

“internet extension application” means an application under section 5.6(a);

“internet extension deposit” means a deposit required by the director under section 5.6(b);

“internet extension fee” means a fee determined by the director under section 5.6(e);

“internet service fee” means a fee in the amount prescribed under section 5.7;

“licensed sewage disposal business” means a waste removal business operating with and in accordance with any licence or permit required by law;

“licensed waste removal business” means a waste removal business operating with and in accordance with any licence or permit required by law;

“Toquaht garbage and recycling service” means the service established under section 4.1;

“Toquaht internet service” means the service established under section 5.1;

“Toquaht internet works” means all things and components, using any type of technology from time to time, used in the provision of internet services by or on behalf of the Toquaht Nation;

“Toquaht sanitary sewer system” means every part of any sanitary sewer system operated by or on behalf of the Toquaht Nation, including any sewer treatment facility, sewage lagoon, pipe, manhole, inspection chamber or meter used in the provision of sanitary sewer services by or on behalf of the Toquaht Nation;

“Toquaht service” means a service provided by or on behalf of the Toquaht Nation for the benefit of

- (a) the public,
- (b) Toquaht citizens or Toquaht enrollees,
- (c) individuals ordinarily resident on Toquaht lands or Toquaht foreshore, or
- (d) businesses or organizations operating on Toquaht lands or Toquaht foreshore;

“Toquaht sewer service” means the service established under section 2.1;

“Toquaht sewer system” means the Toquaht sanitary sewer system or the Toquaht storm sewer system;

“Toquaht storm sewer system” means every part of any storm sewer system operated by or on behalf of the Toquaht Nation, including any pipe, storm drain, manhole or inspection chamber used in the provision of storm sewer services by or on behalf of the Toquaht Nation;

“Toquaht water service” means the service established under section 3.1;

“Toquaht water system” means every part of any water system operated by or on behalf of the Toquaht Nation, including any reservoir, well, water storage or treatment facility, pipe, manhole, hydrant, standpipe, valve, curb valve or meter used in the provision of potable water or fire protection services by or on behalf of the Toquaht Nation;

“other Toquaht service” means a Toquaht service other than a core Toquaht service;

“plumbing system” means, as applicable, every part of any plumbing system on or under any Toquaht lands or Toquaht foreshore, or any building or structure on those Toquaht lands or Toquaht foreshore, which is intended to carry

- (a) sewage or storm water from those Toquaht lands or Toquaht foreshore to a sewer connection, or
- (b) water to those Toquaht lands or Toquaht foreshore from a water connection.

“private sanitary sewer system” means a sanitary sewer system installed, constructed, operated, maintained, repaired, upgraded and replaced in accordance with

- (a) the British Columbia Building Code,
- (b) the Building and Development Authorization Act,
- (c) this Act,

- (d) the Sewerage System Practice Manual,
- (e) the Sewerage System Regulation (British Columbia), and
- (f) any other applicable enactment;

“recycling” means any material or substance prescribed as recyclable;

“recycling bin” means a recycling bin provided under section 4.5(a);

“registered professional” has the meaning given to that term in the Building and Development Authorization Act;

“residential property” means a property within Toquaht lands or Toquaht foreshore that is used for residential purposes and includes single-family homes, duplexes, townhouses, multi-family apartments, condominiums and co-ops;

“residential unit” means a self-contained dwelling unit within a residential property with separate living, cooking and sleeping facilities;

“sewage” means water carried waste but excludes storm water;

“sewer connection” means, as applicable,

- (a) a pipe installed or constructed by or on behalf of the Toquaht Nation from a sanitary sewer main to the property line of a parcel, which is intended to carry sewage from that parcel to that sewer main, and any appurtenance to that pipe, or
- (b) a pipe installed or constructed by or on behalf of the Toquaht Nation from a storm sewer main to the property line of a parcel, which is intended to carry storm water from that parcel to that sewer main, and any appurtenance to that pipe, and
- (c) if the director requires a meter to be installed under section 2.13(c), that meter.

“sewer connection application” means an application under section 2.2;

“sewer connection fee” means a fee in the amount prescribed under section 2.2;

“sewer disconnection application” means an application under section 2.17(a);

“sewer disconnection fee” means a fee in the amount prescribed under section 2.17(a);

“sewer extension” means an extension of the Toquaht sewer system under section 2.12;

“sewer extension application” means an application under section 2.12(a);

“sewer extension deposit” means a deposit in the amount prescribed under section 2.12(a);

“sewer extension fee” means a fee in the amount prescribed under section 2.12(f);

“sewer service fee” means a fee in the amount prescribed under section 2.16(b);

“storm water” means water resulting from natural precipitation from the atmosphere;

“temporary discontinuance” means, in relation to a Toquaht service, a discontinuance of that service for a period of less than 90 days;

“waste bin” means a garbage bin or a recycling bin;

“water connection” means

- (a) a pipe installed or constructed by or on behalf of the Toquaht Nation from a water main to the property line of a parcel, which is intended to carry water to that parcel from that water main, and any appurtenance to that pipe, and
- (b) if the director requires a meter to be installed under section 3.12(d), that meter.

“water connection application” means an application under section 3.2;

“water connection fee” means a fee in the amount prescribed under section 3.2;

“water disconnection application” means an application under section 3.16(a);

“water disconnection fee” means a fee in the amount prescribed under section 3.16(a);

“water extension” means an extension of the Toquaht water system under section 3.11;

“water extension application” means an application under section 3.11(a);

“water extension deposit” means a deposit in the amount prescribed under section 3.11(a);

“water extension fee” means a fee in the amount prescribed under section 3.11(f);

“water service fee” means a fee in the amount prescribed under section 3.15(b).

### **Human occupancy**

- 1.5** For certainty, for the purposes of sections 2.3, 2.4, 2.8, 3.3, 3.4 and 3.8, a building or structure designed or used for human occupancy includes a building or structure occupied as a workplace during regular business hours.



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## PART 2 - SEWER SERVICE

### Toquaht sewer service

- 2.1** The Toquaht sewer service is established and must be operated in accordance with this Part.

### Connection application

- 2.2** An interest holder of Toquaht lands or Toquaht foreshore may apply
- (a) to have an existing building or structure, or a building or structure to be constructed, on those Toquaht lands or Toquaht foreshore, connected to the Toquaht sewer system, or
  - (b) in the case of a renovation referred to in section 2.4(a)(iv), to have a replacement sewer connection installed or constructed and the applicable building or structure reconnected to the Toquaht sewer system,

by submitting a sewer connection application in the prescribed form, together with the prescribed sewer connection fee, to the director.

### Connection required for abutting lands

- 2.3** (a) Subject to subsection (b), an interest holder of Toquaht lands
- (i) on which there is a building or structure designed or used for human occupancy, and
  - (ii) that front on the Toquaht sewer system for the entire frontage or flankage of those Toquaht lands,
- must cause that building or structure to be connected to the Toquaht sewer system in accordance with this Part.
- (b) The director may waive the requirement under subsection (a) if, in his or her opinion,
- (i) the capacity of the Toquaht sewer system is not sufficient to provide service to that building or structure, or
  - (ii) the sewage generated, or to be generated, in that building or structure is not suitable for discharge into the Toquaht sanitary sewer system.

**Connection required for construction on lands**

- 2.4** (a) An application for an authorization under the Building and Development Authorization Act must be accompanied by a sewer connection application, together with the applicable sewer connection fee, if
- (i) the application is in relation to Toquaht lands,
  - (ii) the building or structure set out in the application is designed or used for human occupancy,
  - (iii) the Toquaht lands set out in the application front on the Toquaht sewer system for the entire frontage or flankage of those Toquaht lands, and
  - (iv) the application is for renovation to a building or structure already connected to the Toquaht sewer system and
    - (A) the sewer connection for that building or structure is 30 years old or older,
    - (B) the total estimated construction cost for the renovation is greater than \$100,000, or
    - (C) the renovation will result in
      - (I) enlargement of the plumbing system by adding two or more plumbing fixtures, or
      - (II) an increase in the number of bedrooms,
  - (v) the application is for renovation to a building or structure not yet connected to the Toquaht sewer system, or
  - (vi) the application is for construction of a new building or structure.
- (b) The director may waive the requirement under subsection (a) if, in his or her opinion,
- (i) the capacity of the Toquaht sewer system is not sufficient to provide service to that building or structure,
  - (ii) the sewage generated, or to be generated, in that building or structure is not suitable for discharge into the Toquaht sanitary sewer system, or
  - (iii) in the case of a renovation to a building or structure already connected to the Toquaht sewer system, the existing sewer connection is adequate for providing sewer services to that building or structure.



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## Decision on application

- 2.5** (a) Subject to subsection (b), on receipt of a sewer connection application, together with the applicable sewer connection fee,
- (i) if,
    - (A) in the opinion of the director,
      - (I) the capacity of the Toquaht sewer system is sufficient to provide service to the building or structure set out in the application, and
      - (II) the sewage generated, or to be generated, in that building or structure is suitable for discharge into the Toquaht sanitary sewer system, and
    - (B) the Toquaht lands or Toquaht foreshore set out in the application front on the Toquaht sewer system for the entire frontage or flankage of those Toquaht lands or Toquaht foreshore,

the director must approve the application.
  - (ii) if, in the opinion of the director, the capacity of the Toquaht sewer system is not sufficient to provide service to the building or structure set out in the application, the director may
    - (A) deny the application, or
    - (B) approve the application on the condition that the sewage discharged from that building or structure into the Toquaht sanitary sewer system be limited to an amount determined by the director,
  - (iii) if, in the opinion of the director, the sewage generated, or to be generated, in the building or structure set out in the application is not suitable for discharge into the Toquaht sanitary sewer system, the director must deny the application, and
  - (iv) if the Toquaht lands or Toquaht foreshore set out in the application
    - (A) do not front on the Toquaht sewer system, or
    - (B) only front on the Toquaht sewer system for a portion of the frontage or flankage of those Toquaht lands or Toquaht foreshore,

the director may

- (C) deny the application,
  - (D) approve the application on the condition that, prior to connecting that building or structure to the Toquaht sewer system, the Toquaht sewer system be extended in accordance with section 2.12 to a point determined by the director, or
  - (E) approve the application without the condition referred to in subparagraph (D) if, in his or her opinion, that building or structure is suitable for a sewer connection without an extension to the Toquaht sewer system in accordance with section 2.12.
- (b) If a sewer connection application is in relation to a parcel of Toquaht foreshore,
- (i) the director must not approve the application without the prior approval of the Executive, by resolution, and
  - (ii) the director must deny the application if, in the opinion of the Executive, that parcel is not suitable for a sewer connection.

### **Notice of decision**

**2.6** As soon as practicable after receipt of a sewer connection application, together with the applicable sewer connection fee, the director must deliver in accordance with Toquaht law to the applicant notice of his or her decision on the application.

### **Direction to connect or refund**

- 2.7** (a) If the director approves a sewer connection application, the director must
- (i) as soon as practicable after that approval, direct that a sewer connection be installed or constructed for the building or structure set out in the application, and
  - (ii) as soon as practicable after installation or construction of that sewer connection and receipt of any certification required under section 2.14(b), direct that the Toquaht sewer service be commenced or, in the case of a renovation referred to in section 2.4(a)(iv), recommenced for that building or structure.
- (b) If the director denies a sewer connection application, the Toquaht Nation must, as soon as practicable after that denial, refund any sewer connection fee paid for that application.

### **Connection at interest holder's cost**

- 2.8** (a) If an interest holder of Toquaht lands

- (i) on which there is a building or structure designed or used for human occupancy, and
- (ii) that front on the Toquaht sewer system for the entire frontage or flankage of those Toquaht lands,

fails to cause that building or structure to be connected to the Toquaht sewer system in accordance with section 2.3, the director may, after prior approval of the Executive, by resolution, and 60 days' written notice to that interest holder, cause that building or structure to be connected to the Toquaht sewer system at the interest holder's cost.

- (b) Any cost incurred by the Toquaht Nation under subsection (a) is due and payable by the applicable interest holder to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to that interest holder, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.

#### **Pre-servicing at interest holder's cost**

#### **2.9 (a) If**

- (i) road improvements,
- (ii) improvements to the Toquaht sewer system, or
- (iii) an extension of the Toquaht sewer system,

are scheduled along a road or right of way and a parcel of Toquaht lands fronts on that road or right of way, the director may direct that a sewer connection be installed or constructed to the property line of that parcel.

- (b) If a sewer connection is installed or constructed in accordance with subsection (a), the interest holder of that parcel must pay the service connection fee that would have been payable had that interest holder applied for that sewer connection in accordance with this Part.
- (c) A sewer connection fee payable under subsection (b) is due and payable by the applicable interest holder to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to that interest holder, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.

**Separate connection required**

- 2.10** (a) Subject to subsection (b), a separate sewer connection is required for
- (i) each parcel of Toquaht lands or Toquaht foreshore, and
  - (ii) each building or structure on Toquaht lands or Toquaht foreshore, where two or more buildings or structures exist on a single parcel of Toquaht lands or Toquaht foreshore and those buildings or structures can be legally separated by the subdivision of land.
- (b) The director may waive the requirement under subsection (a)(i) for
- (i) a strata lot,
  - (ii) an air space parcel, or
  - (iii) a parcel from which a strata lot or air space parcel is subdivided,
- if that parcel is, or will be, developed with a plumbing system that is subject to registered reciprocal easements, satisfactory to the director, permitting all interest holders access to all parts of the plumbing system for inspection, maintenance, repair and replacement.
- (c) The director may waive the requirement under subsection (a)(ii) if the interest holder of that parcel agrees to and registers a restrictive covenant, satisfactory to the director, disallowing future subdivision of that parcel.

**Obligation to discontinue septic tank**

- 2.11** As soon as practicable after a building or structure is connected to the Toquaht sewer system in accordance with this Part, the interest holder of that building or structure must cause
- (a) any septic tank in that building or structure to be discontinued,
  - (b) the contents of that septic tank to be removed and properly disposed of, and
  - (c) that septic tank to be either
    - (i) dismantled and removed, or
    - (ii) filled with a material approved by the director.

**Extensions**

- 2.12** (a) An interest holder of Toquaht lands or Toquaht foreshore may apply to have the Toquaht sewer system extended to a point opposite those Toquaht lands or

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Toquaht foreshore by submitting a sewer extension application in the prescribed form, together with the prescribed sewer extension deposit, to the director.

- (b) Subject to subsection (c), on receipt of a sewer extension application, together with the applicable sewer extension deposit,
  - (i) if, in the opinion of the director,
    - (A) the capacity of the Toquaht sewer system is sufficient to provide service to the building or structure set out in the application,
    - (B) the sewage generated, or to be generated, in that building or structure is suitable for discharge into the Toquaht sanitary sewer system, and
    - (C) the cost of operating and maintaining that sewer extension would not be excessive relative to the revenues from buildings or structures serviced by that sewer extension,the director must approve the application, and
  - (ii) if, in the opinion of the director,
    - (A) the capacity of the Toquaht sewer system is not sufficient to provide service to the building or structure set out in the application,
    - (B) the sewage generated, or to be generated, in that building or structure is not suitable for discharge into the Toquaht sanitary sewer system, or
    - (C) the cost of operating and maintaining that sewer extension would be excessive relative to the revenues from buildings or structures serviced by that sewer extension,the director may deny the application.
- (c) If a sewer extension application is in relation to a parcel of Toquaht foreshore,
  - (i) the director must not approve the application without the prior approval of the Executive, by resolution, and
  - (ii) the director must deny the application if, in the opinion of the Executive, that parcel is not suitable for a sewer extension.

- (d) As soon as practicable after receipt of a sewer extension application, together with the applicable sewer extension deposit, the director must deliver in accordance with Toquaht law to the applicant notice of his or her decision on the application.
- (e) If the director approves a sewer extension application, the director must direct that the Toquaht sewer system be extended to a point opposite the Toquaht lands or Toquaht foreshore set out in the application.
- (f) Within 30 days after a sewer extension is installed or constructed in accordance with this section or on such other date as may be agreed upon in writing by the director of finance, the applicable interest holder must pay to the Toquaht Nation the prescribed sewer extension fee, less any sewer extension deposit paid for that sewer extension, and that amount may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.
- (g) If the director denies a sewer extension application, the Toquaht Nation must, as soon as practicable after that denial, refund any sewer extension deposit or sewer extension fee paid for that application.

### **Construction and operation of Toquaht sewer system**

- 2.13** (a) The Toquaht sewer system, including any sewer connections and sewer extensions, must not be installed, constructed, operated, maintained, repaired, upgraded or replaced by any person except
- (i) a Toquaht government employee in the course of his or her duties as a Toquaht government employee,
  - (ii) an independent contractor of the Toquaht Nation in the course of his or her duties as an independent contractor of the Toquaht Nation, or
  - (iii) another person approved by the director.
- (b) If an applicant requests that a sewer connection be installed or constructed at a particular location and, in the opinion of the director, that location is practicable, the director must direct that the sewer connection be installed or constructed at that location.
- (c) The director may require a meter to be installed for any sewer connection.
- (d) As soon as practicable after the director becomes aware of any damage to or failure, breakdown, malfunction or blockage of the Toquaht sewer system, the director must, at the Toquaht Nation's cost, cause that damage, failure, breakdown, malfunction or blockage to be remedied and restore service to any affected buildings or structures.

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## Construction and operation of plumbing system

- 2.14** (a) An interest holder of Toquaht lands or Toquaht foreshore must, at that interest holder's cost, cause any plumbing system on or under those Toquaht lands or Toquaht foreshore to be installed, constructed, operated, maintained, repaired, upgraded and replaced in accordance with the British Columbia Building Code, the Building and Development Authorization Act, this Act and any other applicable enactment.
- (b) The director must not direct that the Toquaht sewer service be commenced, or in the case of a renovation referred to in section 2.4(a)(iv), recommenced for a building or structure until certification that the plumbing system for that building or structure is in substantial compliance with the British Columbia Building Code and the Building and Development Authorization Act has been provided to the director in accordance with the Building and Development Authorization Act or subsection (c).
- (c) If a sewer connection is for a building or structure constructed prior to the enactment of the Building and Development Authorization Act, prior to directing that the Toquaht sewer service be commenced for that building or structure, the director may require the applicant to
- (i) engage, at the applicant's cost, a building official or registered professional to certify that the plumbing system for that building or structure is in substantial compliance with the British Columbia Building Code, and
  - (ii) provide that certification to the director.
- (d) If
- (i) a garage, automobile service station, restaurant, fast food outlet or vehicle or equipment washing establishment is or will be operated in a building or structure serviced by the Toquaht sewer system, or
  - (ii) in the opinion of the director, a grease, oil and sand interceptor is necessary for the proper handling of sewage generated within a building or structure serviced by the Toquaht sewer system,
- the plumbing system for that building or structure must include a grease, oil and sand interceptor, of a type and at a location approved by the director.
- (e) As soon as practicable after an interest holder becomes aware of any damage to or failure, breakdown, malfunction or blockage of any plumbing system on or under those Toquaht lands or Toquaht foreshore, that interest holder must, at his or her

cost, cause that damage, failure, breakdown, malfunction or blockage to be remedied.

### **Maintenance at interest holder's cost**

- 2.15** (a) If an interest holder of Toquaht lands or Toquaht foreshore serviced by the Toquaht sewer system fails to operate, maintain, repair, upgrade or replace a plumbing system on or under those Toquaht lands or Toquaht foreshore in accordance with section 2.14, the director may, after 30 days' written notice to that interest holder, cause any necessary maintenance, repairs, upgrades or replacements to be carried out or made to that plumbing system at the interest holder's cost.
- (b) Despite subsection (a), if the director becomes aware of a blockage or leak in a plumbing system on or under Toquaht lands or Toquaht foreshore serviced by the Toquaht sewer system and the interest holder of those Toquaht lands or Toquaht foreshore fails to cause that blockage or leak to be cleared or repaired, as required under section 2.14(e), the director may, after 24 hours' written notice to that interest holder, cause that blockage or leak to be cleared or repaired at the interest holder's cost.
- (c) Any cost incurred by the Toquaht Nation under subsection (a) or (b) is due and payable by the applicable interest holder to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to that interest holder, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.

### **Sewer service fee**

- 2.16** (a) On or before June 1 of each year, the director of finance must deliver in accordance with Toquaht law to each interest holder of Toquaht lands or Toquaht foreshore serviced by the Toquaht sewer system a notice setting out the sewer service fee payable for that year for each building or structure on those Toquaht lands or Toquaht foreshore.
- (b) One or before July 2 of each year or such other date as may be agreed upon in writing by the director of finance, an interest holder of a building or structure serviced by the Toquaht sewer system must pay the prescribed sewer service fee to the Toquaht Nation.
- (c) In the year a building or structure is connected to or disconnected from the Toquaht sewer system, the sewer service fee for that building or structure must be prorated from or to the date the building or structure is connected or disconnected, as applicable.



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- (d) If a building or structure is connected to the Toquaht sewer system after June 1,
- (i) the director of finance must, as soon as practicable after the building or structure is connected, deliver in accordance with Toquaht law to each interest holder of that building or structure a notice setting out the sewer service fee payable for that year for that building or structure, prorated in accordance with subsection (c), and
  - (ii) that interest holder must pay the prorated sewer service fee to the Toquaht Nation within 30 days of receipt of that notice or such other date as may be agreed upon in writing by the director of finance.
- (e) If a building or structure is disconnected from the Toquaht sewer system after the sewer service fee for that year has been paid, the Toquaht Nation must refund any excess paid to the applicable interest holder, prorated in accordance with subsection (c).
- (f) Despite subsection (e), if there are any outstanding sewer service fees for a building or structure disconnected from the Toquaht sewer system, the director of finance may set off any refund payable under that subsection against
- (i) the outstanding fees, or
  - (ii) any penalty or interest incurred in relation to those fees,
- and refund any balance to the applicable interest holder.
- (g) Despite subsections (c) and (e), the sewer service fee must not be prorated and a refund must not be issued for any temporary discontinuance of the Toquaht sewer service.
- (h) If a sewer service fee for Toquaht lands remains unpaid on December 31 of the year in which it becomes payable, the outstanding amount
- (i) is deemed to be a tax levied under the Real Property Tax Act, and
  - (ii) incurs penalties and interest and may be collected in accordance with that Act.
- (i) For certainty, the fact that a sewer connection or sewer extension is installed or constructed
- (i) at an interest holder's cost, by a contractor of that interest holder approved by the director under section 2.13(a)(iii), or

- (ii) using sewer connection fees, sewer extension fees or other amounts collected under this Part, with little or no additional cost to the Toquaht Nation,

does not in any way exempt an interest holder of Toquaht lands or Toquaht foreshore serviced via that sewer connection or sewer extension from any sewer service fee payable under this section.

- (j) For certainty, the fact that
  - (i) no sewage is generated in a building or structure for all or a portion of a year, or
  - (ii) the Toquaht sewer service is temporarily suspended
    - (A) by the Toquaht Nation under section 2.24(b), or
    - (B) due to any damage to or failure, breakdown, malfunction or blockage of the Toquaht sewer system,

does not in any way exempt an interest holder of that building or structure from any sewer service fee payable under this section.

### **Disconnection on request**

- 2.17** (a) An interest holder of a building or structure serviced by the Toquaht sewer system may apply to have that building or structure disconnected from the Toquaht sewer system temporarily or permanently by submitting a sewer disconnection application in the prescribed form, together with the prescribed sewer disconnection fee, to the director.
- (b) On receipt of a sewer disconnection application, together with the applicable sewer disconnection fee, the director must direct that the building or structure set out in the application be disconnected from the Toquaht sewer system at a location and in a manner approved by the director.

### **Disconnection required on removal, demolition or damage**

- 2.18** (a) If an interest holder of Toquaht lands or Toquaht foreshore intends to remove or demolish a building or structure on those Toquaht lands or Toquaht foreshore and that building or structure is serviced by the Toquaht sewer system, that interest holder must, prior to carrying out the removal or demolition, as applicable, cause that building or structure to be disconnected from the Toquaht sewer system in accordance with this Part.
- (b) If a building or structure serviced by the Toquaht sewer system is damaged to the extent that it can no longer be put to any legally permitted use, the interest holder

of that building or structure must, as soon as practicable after the damage occurs, cause that building or structure to be disconnected from the Toquaht sewer system in accordance with this Part.

- (c) If an interest holder fails to cause a building or structure to be disconnected from the Toquaht sewer system in accordance with subsection (a) or (b), the director may, after prior approval of the Executive, by resolution, and 60 days' written notice to that interest holder, cause that building or structure to be disconnected from the Toquaht sewer system at the interest holder's cost.
- (d) Any cost incurred by the Toquaht Nation under subsection (c) is due and payable by the applicable interest holder to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to that interest holder, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.

### **Disconnection for non-compliance**

- 2.19** (a) In addition to any penalty that may be imposed under this or any other enactment, if an interest holder or occupier of a building or structure serviced by the Toquaht sewer system contravenes this Part, the director may, after prior approval of the Executive, by resolution, and 60 days' written notice to each interest holder and known occupier of that building or structure,
- (i) cause that building or structure to be disconnected from the Toquaht sewer system at the interest holder's cost, and
  - (ii) establish the terms or conditions on which that building or structure may be reconnected to the Toquaht sewer system.
- (b) A notice under subsection (a) must be delivered in accordance with Toquaht law to the applicable interest holder or occupier.
  - (c) An interest holder or occupier may, within 14 days of receipt of a notice under subsection (a), request a review of that notice under the Administrative Decisions Review Act.
  - (d) Any cost incurred by the Toquaht Nation under subsection (a) is due and payable by the applicable interest holder to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to that interest holder, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.

**Prohibitions**

- 2.20** (a) A person must not connect or attempt to connect any building or structure, or allow or cause any building or structure to be connected, to the Toquaht sewer system except in accordance with this Part.
- (b) A person must not discharge, or allow or cause to be discharged, into the Toquaht sanitary sewer system anything except sewage.
- (c) Unless otherwise approved by the director, an interest holder or occupier of Toquaht lands or Toquaht foreshore serviced by the Toquaht sewer system must not discharge, or allow or cause to be discharged, into the Toquaht sanitary sewer system any sewage except sewage generated within those Toquaht lands or Toquaht foreshore.
- (d) A person must not discharge, or allow or cause to be discharged, into the Toquaht sanitary sewer system any
- (i) sewage of a type, concentration or quantity as may be prescribed,
  - (ii) sludge, material or deposit from a septic tank, or
  - (iii) substance for the purpose of diluting industrial sewage to meet prescribed tolerance standards, except where that dilution is expressly permitted by law.
- (e) A person must not discharge, or allow or cause to be discharged, into the Toquaht storm sewer system anything except storm water.
- (f) A person must not discharge sewage anywhere on Toquaht lands or Toquaht foreshore except into
- (i) the Toquaht sanitary sewer system,
  - (ii) a private sanitary sewer system, or
  - (iii) a sewage transport vehicle operated by a licensed sewage disposal business.
- (g) A person must not discharge sewage from a recreational vehicle anywhere except into a dump station operated for that purpose.
- (h) A person must not bury, cover or obstruct, at any time or in any manner, access to any manhole, inspection chamber or meter connected to the Toquaht sewer system by placing on or in the vicinity of that manhole, inspection chamber or meter any fencing, landscaping, lumber, brick, stone, gravel sand or other material or thing.

- (i) A person must not break, damage, destroy, deface, remove, uncover, open, close or tamper with any part of the Toquaht sewer system except in accordance with section 2.13.
- (j) A person must not provide false information or omit any relevant information
  - (i) in any application under this Part, or
  - (ii) to the director, the director of finance, a trained public works operations and maintenance worker, or an enforcement officer in the performance of his or her duties or the exercise of his or her powers under this Part.

### **Inspection**

- 2.21** (a) The director, a trained public works operations and maintenance worker, or an enforcement officer may, at any reasonable time,
- (i) enter any Toquaht lands or Toquaht foreshore, including any building or structure on those Toquaht lands or Toquaht foreshore,
  - (ii) make reasonable inspections of those Toquaht lands or Toquaht foreshore,
  - (iii) make reasonable inquiries of any interest holder or occupier of those Toquaht lands or Toquaht foreshore,
  - (iv) obtain a sample from any plumbing system on or under those Toquaht lands or Toquaht foreshore, or
  - (v) read any meter on those Toquaht lands or Toquaht foreshore,
- to determine the sewer service fee payable for those Toquaht lands or Toquaht foreshore or to ascertain whether or not this Part is being complied with.
- (b) A person must not interfere with or obstruct the director, a trained public works operations and maintenance worker, or an enforcement officer in the performance of his or her duties or the exercise of his or her powers under subsection (a).

### **Accidental discharge**

- 2.22** (a) Where a discharge of any substance into Toquaht sewer system occurs or is reasonably likely to occur in contravention of this Act, every person causing or contributing to the discharge or increasing the likelihood of such a discharge, and the owner or the person in charge, management or control of the substance before its discharge or likely discharge, must immediately
- (i) subject to any regulations, report the discharge or likely discharge to the director,

- (ii) at that person's cost, take all reasonable measures consistent with public safety to stop the discharge, repair any damage caused by the discharge and prevent or eliminate any danger to life, health, property or the environment that results or may be reasonably expected to result from the discharge or likely discharge.
- (b) Where a person fails or neglects to take remedial measures, as required under subsection (a)(ii), or where, in the opinion of the director, immediate remedial measures are required to protect the environment or minimize damage to the Toquaht sewer system, the director may, at that person's cost, cause those remedial measures to be carried out.
- (c) Any cost incurred by the Toquaht Nation under subsection (b) is due and payable by the applicable interest holder to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to that interest holder, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.
- (d) For certainty, reporting a discharge or taking remedial measures, as required under subsection (a), does not relieve any person from liability or any penalty that may be imposed under this or any other enactment in respect of that discharge.

### **No liability for nuisance**

**2.23** The Toquaht Nation is not liable in any action based on nuisance or on the rule in the *Rylands v. Fletcher* case if the damages arise, directly or indirectly, out of any damage to or failure, breakdown, malfunction or blockage of the Toquaht sewer system.

### **No liability for change in operating conditions**

- 2.24**
- (a) The Toquaht Nation does not guarantee continuity or adequacy of the Toquaht sewer service.
  - (b) The Toquaht Nation may, at any time without notice, change the operating conditions of the Toquaht sewer system or temporarily suspend the Toquaht sewer service for any purpose, including maintenance, repairs, upgrades or replacements.
  - (c) The Toquaht Nation is not liable for any loss, damage, expense, death or injury, including bodily injury, sustained by any person as a result of any change in the operating conditions of the Toquaht sewer system or temporary suspension of the Toquaht sewer service.

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## PART 3 - WATER SERVICE

### Toquaht water service

- 3.1** The Toquaht water service is continued/established and must be operated in accordance with this Part.

### Connection application

- 3.2** An interest holder of Toquaht lands or Toquaht foreshore may apply
- (a) to have an existing building or structure, or a building or structure to be constructed, on those Toquaht lands or Toquaht foreshore, connected to the Toquaht water system, or
  - (b) in the case of a renovation referred to in section 3.4(a)(iv), to have a replacement water connection installed or constructed and the applicable building or structure reconnected to the Toquaht water system,

by submitting a water connection application in the prescribed form, together with the prescribed water connection fee, to the director.

### Connection required for abutting lands

- 3.3** (a) Subject to subsection (b), an interest holder of Toquaht lands
- (i) on which there is a building or structure designed or used for human occupancy, and
  - (ii) that front on the Toquaht water system for the entire frontage or flankage of those Toquaht lands,
- must cause that building or structure to be connected to the Toquaht water system in accordance with this Part.
- (b) The director may waive the requirement under subsection (a) if, in his or her opinion, the capacity of the Toquaht water system is not sufficient to provide service to that building or structure.

### Connection required for construction on lands

- 3.4** (a) An application for an authorization under the Building and Development Authorization Act must be accompanied by a water connection application, together with the applicable water connection fee, if
- (i) the application is in relation to Toquaht lands,

- (ii) the building or structure set out in the application is designed or used for human occupancy,
  - (iii) the Toquaht lands set out in the application front on the Toquaht water system for the entire frontage or flankage of those Toquaht lands, and
  - (iv) the application is for renovation to a building or structure already connected to the Toquaht water system and
    - (A) the water connection for that building or structure is 30 years old or older,
    - (B) the total estimated construction cost for the renovation is greater than \$100,000, or
    - (C) the renovation will result in
      - (I) enlargement of the plumbing system by adding two or more plumbing fixtures, or
      - (II) an increase in the number of bedrooms,
  - (v) the application is for renovation to a building or structure not yet connected to the Toquaht water system, or
  - (vi) the application is for construction of a new building or structure.
- (b) The director may waive the requirement under subsection (a) if, in his or her opinion,
- (i) the capacity of the Toquaht water system is not sufficient to provide service to that building or structure, or
  - (ii) in the case of a renovation to a building or structure already connected to the Toquaht water system, the existing water connection is adequate for providing water services to that building or structure.

### **Decision on application**

- 3.5** (a) Subject to subsection (b), on receipt of a water connection application, together with the applicable water connection fee,
- (i) if,
    - (A) in the opinion of the director, the capacity of the Toquaht water system is sufficient to provide service to the building or structure set out in the application, and



- (B) the Toquaht lands or Toquaht foreshore set out in the application front on the Toquaht water system for the entire frontage or flankage of those Toquaht lands or Toquaht foreshore,  
  
the director must approve the application.
- (ii) if, in the opinion of the director, the capacity of the Toquaht water system is not sufficient to provide service to the building or structure set out in the application, the director must deny the application.
- (iii) if the Toquaht lands or Toquaht foreshore set out in the application
  - (A) do not front on the Toquaht water system, or
  - (B) only front on the Toquaht water system for a portion of the frontage or flankage of those Toquaht lands or Toquaht foreshore,  
  
the director may
    - (C) deny the application,
    - (D) approve the application on the condition that, prior to connecting that building or structure to the Toquaht water system, the Toquaht water system be extended in accordance with section 3.11 to a point determined by the director, or
    - (E) approve the application without the condition referred to in subparagraph (D) if, in his or her opinion, that building or structure is suitable for a water connection without an extension to the Toquaht water system in accordance with section 3.11.
- (b) If a water connection application is in relation to a parcel of Toquaht foreshore,
  - (i) the director must not approve the application without the prior approval of the Executive, by resolution, and
  - (ii) the director must deny the application if, in the opinion of the Executive, that parcel is not suitable for a water connection.

### **Notice of decision**

- 3.6** As soon as practicable after receipt of a water connection application, together with the applicable water connection fee, the director must deliver in accordance with Toquaht law to the applicant notice of his or her decision on the application.

**Direction to connect or refund**

- 3.7** (a) If the director approves a water connection application, the director must
- (i) as soon as practicable after that approval, direct that a water connection be installed or constructed for the building or structure set out in the application, and
  - (ii) as soon as practicable after installation or construction of that water connection and receipt of any certification required under section 3.13(b), direct that the Toquaht water service be commenced or, in the case of a renovation referred to in section 3.4(a)(iv), recommenced for that building or structure, including opening the curb valve for that building or structure.
- (b) If the director denies a water connection application, the Toquaht Nation must, as soon as practicable after that denial, refund any water connection fee paid for that application.

**Connection at interest holder's cost**

- 3.8** (a) If an interest holder of Toquaht lands
- (i) on which there is a building or structure designed or used for human occupancy, and
  - (ii) that front on the Toquaht water system for the entire frontage or flankage of those Toquaht lands,
- fails to cause that building or structure to be connected to the Toquaht water system in accordance with section 3.3, the director may, after prior approval of the Executive, by resolution, and 60 days' written notice to that interest holder, cause that building or structure to be connected to the Toquaht water system at the interest holder's cost.
- (b) Any cost incurred by the Toquaht Nation under subsection (a) is due and payable by the applicable interest holder to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to that interest holder, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.

**Pre-servicing at interest holder's cost**

- 3.9** (a) If
- (i) road improvements,

(ii) improvements to the Toquaht water system, or

(iii) an extension of the Toquaht water system,

are scheduled along a road or right of way and a parcel of Toquaht lands fronts on that road or right of way, the director may direct that a water connection be installed or constructed to the property line of that parcel.

(b) If a water connection is installed or constructed in accordance with subsection (a), the interest holder of that parcel must pay the water connection fee that would have been payable had that interest holder applied for that water connection in accordance with this Part.

(c) A water connection fee payable under subsection (b) is due and payable by the applicable interest holder to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to that interest holder, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.

### **Separate connection required**

**3.10** (a) Subject to subsection (b), a separate water connection is required for

(i) each parcel of Toquaht lands or Toquaht foreshore, and

(ii) each building or structure on Toquaht lands or Toquaht foreshore, where two or more buildings or structures exist on a single parcel of Toquaht lands or Toquaht foreshore and those buildings or structures can be legally separated by the subdivision of land.

(b) The director may waive the requirement under subsection (a)(i) for

(i) a strata lot,

(ii) an air space parcel, or

(iii) a parcel from which a strata lot or air space parcel is subdivided,

if that parcel is, or will be, developed with a plumbing system that is subject to registered reciprocal easements, satisfactory to the director, permitting all interest holders access to all parts of the plumbing system for inspection, maintenance, repair and replacement.

(c) The director may waive the requirement under subsection (a)(ii) if the interest holder of that parcel agrees to and registers a restrictive covenant, satisfactory to the director, disallowing future subdivision of that parcel.

**Extensions**

- 3.11** (a) An interest holder of Toquaht lands or Toquaht foreshore may apply to have the Toquaht water system extended to a point opposite those Toquaht lands or Toquaht foreshore by submitting a water extension application in the prescribed form, together with the prescribed water extension deposit, to the director.
- (b) Subject to subsection (c), on receipt of a water extension application, together with the applicable water extension deposit,
- (i) if, in the opinion of the director,
- (A) the capacity of the Toquaht water system is sufficient to provide service to the building or structure set out in the application, and
- (B) the cost of operating and maintaining that water extension would not be excessive relative to the revenues from buildings or structures serviced by that water extension,
- the director must approve the application, and
- (ii) if, in the opinion of the director,
- (A) the capacity of the Toquaht water system is not sufficient to provide service to the building or structure set out in the application, or
- (B) the cost of operating and maintaining that water extension would be excessive relative to the revenues from buildings or structures serviced by that water extension,
- the director must deny the application.
- (c) If a water extension application is in relation to a parcel of Toquaht foreshore,
- (i) the director must not approve the application without the prior approval of the Executive, by resolution, and
- (ii) the director must deny the application if, in the opinion of the Executive, that parcel is not suitable for a water extension.
- (d) As soon as practicable after receipt of a water extension application, together with the applicable water extension deposit, the director must deliver in accordance with Toquaht law to the applicant notice of his or her decision on the application.

- (e) If the director approves a water extension application, the director must direct that the Toquaht water system be extended to a point opposite the Toquaht lands or Toquaht foreshore set out in the application.
- (f) Within 30 days after a water extension is installed or constructed in accordance with this section or on such other date as may be agreed upon in writing by the director of finance, the applicable interest holder must pay to the Toquaht Nation the prescribed water extension fee, less any water extension deposit paid for that water extension, and that amount may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.
- (g) If the director denies a water extension application, the Toquaht Nation must, as soon as practicable after that denial, refund any water extension deposit or water extension fee paid for that application.

### **Construction and operation of Toquaht water system**

- 3.12** (a) The Toquaht water system, including any water connections and water extensions, must not be installed, constructed, operated, maintained, repaired, upgraded or replaced by any person except
- (i) a Toquaht government employee in the course of his or her duties as a Toquaht government employee,
  - (ii) an independent contractor of the Toquaht Nation in the course of his or her duties as an independent contractor of the Toquaht Nation, or
  - (iii) another person approved by the director.
- (b) For certainty, no person may
- (i) open or close any curb valve,
  - (ii) open any hydrant or standpipe, or
  - (iii) use any water from any hydrant or standpipe,
- except a person referred to in subsection (a).
- (c) If an applicant requests that a water connection be installed or constructed at a particular location and, in the opinion of the director, that location is practicable, the director must direct that the water connection be installed or constructed at that location.
- (d) The director may require a meter to be installed for any water connection.

- (e) As soon as practicable after the director becomes aware of any damage to or failure, breakdown or malfunction of the Toquaht water system, the director must, at the Toquaht Nation's cost, cause that damage, failure, breakdown or malfunction to be remedied and restore service to any affected buildings or structures.

### **Construction and operation of plumbing system**

- 3.13**
- (a) An interest holder of Toquaht lands or Toquaht foreshore must, at that interest holder's cost, cause any plumbing system on or under those Toquaht lands or Toquaht foreshore to be installed, constructed, operated, maintained, repaired, upgraded and replaced in accordance with the British Columbia Building Code, the Building and Development Authorization Act, this Act and any other applicable enactment.
  - (b) The director must not direct that the Toquaht water service be commenced, or in the case of a renovation referred to in section 3.4(a)(iv), recommenced for a building or structure until certification that the plumbing system for that building or structure is in substantial compliance with the British Columbia Building Code and the Building and Development Authorization Act has been provided to the director in accordance with the Building and Development Authorization Act or subsection (c).
  - (c) If a water connection is for a building or structure constructed prior to the enactment of the Building and Development Authorization Act, prior to directing that the Toquaht water service be commenced for that building or structure, the director may require the applicant to
    - (i) engage, at the applicant's cost, a building official or registered professional to certify that the plumbing system for that building or structure is in substantial compliance with the British Columbia Building Code, and
    - (ii) provide that certification to the director.
  - (d) As soon as practicable after an interest holder becomes aware of any damage to or failure, breakdown or malfunction of any plumbing system on or under those Toquaht lands or Toquaht foreshore, that interest holder must, at his or her cost, cause that damage, failure, breakdown or malfunction to be remedied.

### **Maintenance at interest holder's cost**

- 3.14**
- (a) If an interest holder of Toquaht lands or Toquaht foreshore serviced by the Toquaht water system fails to operate, maintain, repair, upgrade or replace a plumbing system on or under those Toquaht lands or Toquaht foreshore in accordance with section 3.13, the director may, after 30 days' written notice to

that interest holder, cause any necessary maintenance, repairs, upgrades or replacements to be carried out or made to that plumbing system at the interest holder's cost.

- (b) Despite subsection (a), if the director becomes aware of a leak in a plumbing system on or under Toquaht lands or Toquaht foreshore serviced by the Toquaht water system and the interest holder of those Toquaht lands or Toquaht foreshore fails to cause that leak to be repaired, as required under section 3.13(d), the director may, after 24 hours' written notice to that interest holder, cause that leak to be repaired at the interest holder's cost.
- (c) Any cost incurred by the Toquaht Nation under subsection (a) or (b) is due and payable by the applicable interest holder to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to that interest holder, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.

### **Water service fee**

- 3.15**
- (a) On or before June 1 of each year, the director of finance must deliver in accordance with Toquaht law to each interest holder of Toquaht lands or Toquaht foreshore serviced by the Toquaht water system a notice setting out the water service fee payable for that year for each building or structure on those Toquaht lands or Toquaht foreshore.
  - (b) On or before July 2 of each year or such other date as may be agreed upon in writing by the director of finance, an interest holder of a building or structure serviced by the Toquaht water system must pay the prescribed water service fee to the Toquaht Nation.
  - (c) In the year a building or structure is connected to or disconnected from the Toquaht water system, the water service fee for that building or structure must be prorated from or to the date the building or structure is connected or disconnected, as applicable.
  - (d) If a building or structure is connected to the Toquaht water system after June 1,
    - (i) the director of finance must, as soon as practicable after the building or structure is connected, deliver in accordance with Toquaht law to each interest holder of that building or structure a notice setting out the water service fee payable for that year for that building or structure, prorated in accordance with subsection (c), and

- (ii) that interest holder must pay the prorated water service fee to the Toquaht Nation within 30 days of receipt of that notice or such other date as may be agreed upon in writing by the director of finance.
- (e) If a building or structure is disconnected from the Toquaht water system after the water service fee for that year has been paid, the Toquaht Nation must refund any excess paid to the applicable interest holder, prorated in accordance with subsection (c).
- (f) Despite subsection (e), if there are any outstanding water service fees for a building or structure disconnected from the Toquaht water system, the director of finance may set off any refund payable under that subsection against
  - (i) the outstanding fees, or
  - (ii) any penalty or interest incurred in relation to those fees,and refund any balance to the applicable interest holder.
- (g) Despite subsections (c) and (e), the water service fee must not be prorated and a refund must not be issued for any temporary discontinuance of the Toquaht water service.
- (h) If a water service fee for Toquaht lands remains unpaid on December 31 of the year in which it becomes payable, the outstanding amount
  - (i) is deemed to be a tax levied under the Real Property Tax Act, and
  - (ii) incurs penalties and interest and may be collected in accordance with that Act.
- (i) For certainty, the fact that a water connection or water extension is installed or constructed
  - (i) at an interest holder's cost, by a contractor of that interest holder approved by the director under section 3.12(a)(iii), or
  - (ii) using water connection fees, water extension fees or other amounts collected under this Part, with little or no additional cost to the Toquaht Nation,does not in any way exempt an interest holder of Toquaht lands or Toquaht foreshore serviced via that water connection or water extension from any sewer service fee payable under this section.
- (j) For certainty, the fact that



- (i) no water is used from a building or structure for all or a portion of the year, or
- (ii) the Toquaht water service is temporarily suspended
  - (A) by the Toquaht Nation under section 3.22(b), or
  - (B) due to any damage to or failure, breakdown or malfunction of the Toquaht water system,

does not in any way exempt an interest holder of that building or structure from any water service fee payable under this section.

- (h) Water fees due to a leak on or under the lands of an interest holder of Toquaht lands or Toquaht foreshore serviced by the Toquaht water system will be payable by the interest holder.

#### **Disconnection on request**

- 3.16** (a) An interest holder of a building or structure serviced by the Toquaht water system may apply to have that building or structure disconnected from the Toquaht water system temporarily or permanently by submitting a water disconnection application in the prescribed form, together with the prescribed water disconnection fee, to the director.
- (b) On receipt of a water disconnection application, together with the applicable water disconnection fee, the director must direct that the building or structure set out in the application be disconnected from the Toquaht water at a location and in a manner approved by the director.

#### **Disconnection required on removal, demolition or damage**

- 3.17** (a) If an interest holder of Toquaht lands or Toquaht foreshore intends to remove or demolish a building or structure on those Toquaht lands or Toquaht foreshore and that building or structure is serviced by the Toquaht water system, that interest holder must, prior to carrying out the removal or demolition, as applicable, cause that building or structure to be disconnected from the Toquaht water system in accordance with this Part.
- (b) If a building or structure serviced by the Toquaht water system is damaged to the extent that it can no longer be put to any legally permitted use, the interest holder of that building or structure must, as soon as practicable after the damage occurs, cause that building or structure to be disconnected from the Toquaht water system in accordance with this Part.

- (c) If an interest holder fails to cause a building or structure to be disconnected from the Toquaht water system in accordance with subsection (a) or (b), the director may, after prior approval of the Executive, by resolution, and 60 days' written notice to that interest holder, cause that building or structure to be disconnected from the Toquaht water system at the interest holder's cost.
- (d) Any cost incurred by the Toquaht Nation under subsection (c) is due and payable by the applicable interest holder to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to that interest holder, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.

### **Disconnection for non-compliance**

- 3.18** (a) In addition to any penalty that may be imposed under this or any other enactment, if an interest holder or occupier of a building or structure serviced by the Toquaht water system contravenes this Part, the director may, after prior approval of the Executive, by resolution, and 60 days' written notice to each interest holder and known occupier of that building or structure,
- (i) cause that building or structure to be disconnected from the Toquaht water system at the interest holder's cost, and
  - (ii) establish the terms or conditions on which that building or structure may be reconnected to the Toquaht water system.
- (b) A notice under subsection (a) must be delivered in accordance with Toquaht law to the applicable interest holder or occupier.
- (c) An interest holder or occupier may, within 14 days of receipt of a notice under subsection (a), request a review of that notice under the Administrative Decisions Review Act.
- (d) Any cost incurred by the Toquaht Nation under subsection (a) is due and payable by the applicable interest holder to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to that interest holder, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.

### **Prohibitions**

- 3.19** (a) A person must not connect or attempt to connect any building or structure, or allow or cause any building or structure to be connected, to the Toquaht water system except in accordance with this Part.

- (b) A person must not sell or dispose of, or allow or cause to be sold or disposed of, any water from the Toquaht water system.
- (c) An interest holder or occupier of Toquaht lands or Toquaht foreshore serviced by the Toquaht water system must not use or transport, or allow or cause to be used or transported, for the benefit of any person other than that interest holder or occupier, any water from the Toquaht water system, unless otherwise approved by the director.
- (d) A person must not willfully or knowingly waste any water from the Toquaht sewer system, including willfully or knowingly failing to repair a leak in the plumbing system for that building or structure.
- (e) A person must not discharge, or allow or cause to be discharged, into the Toquaht water system any substance that is capable of injuring property or any life form, including humans, animals and plants.
- (f) A person must not bury, cover or obstruct, at any time or in any manner, access to any hydrant, standpipe, valve, curb valve, manhole or meter connected to the Toquaht water system by placing on or in the vicinity of that hydrant, standpipe, valve, curb valve, manhole or meter any fencing, landscaping, lumber, brick, stone, gravel sand or other material or thing.
- (g) A person must not break, damage, destroy, deface, remove, uncover, open, close or tamper with any part of the Toquaht water system except in accordance with section 3.12.
- (h) A person must not provide false information or omit any relevant information
  - (i) in any application under this Part, or
  - (ii) to the director, a trained public works operations and maintenance worker, the director of finance or an enforcement officer in the performance of his or her duties or the exercise of his or her powers under this Part.

## **Inspection**

- 3.20** (a) The director, a trained public works operations and maintenance worker or an enforcement officer may, at any reasonable time,
- (i) enter any Toquaht lands or Toquaht foreshore, including any building or structure on those Toquaht lands or Toquaht foreshore,
  - (ii) make reasonable inspections of those Toquaht lands or Toquaht foreshore,
  - (iii) make reasonable inquiries of any interest holder or occupier of those Toquaht lands or Toquaht foreshore,

- (iv) obtain a sample from any plumbing system on or under those Toquaht lands or Toquaht foreshore, or
  - (v) read any meter on those Toquaht lands or Toquaht foreshore,  
to determine the water service fee payable for those Toquaht lands or Toquaht foreshore or to ascertain whether or not this Part is being complied with.
- (b) A person must not interfere with or obstruct the director, a trained public works operations and maintenance worker or an enforcement officer in the performance of his or her duties or the exercise of his or her powers under subsection (a).

### **No liability for nuisance**

**3.21** The Toquaht Nation is not liable in any action based on nuisance or on the rule in the Rylands v. Fletcher case if the damages arise, directly or indirectly, out of any damage to or failure, breakdown or malfunction of the Toquaht water system.

### **No liability for change in operating conditions**

- 3.22**
- (a) The Toquaht Nation does not guarantee continuity or adequacy of the Toquaht water system.
  - (b) The Toquaht Nation may, at any time without notice, change the operating conditions of the Toquaht water system or temporarily suspend the Toquaht water service for any purpose, including maintenance, repairs, upgrades or replacements.
  - (c) The Toquaht Nation is not liable for any loss, damage, expense, death or injury, including bodily injury, sustained by any person as a result of any change in the operating conditions of the Toquaht water system or temporary suspension of the Toquaht sewer service.

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## PART 4 - GARBAGE AND RECYCLING SERVICE

### Toquaht garbage and recycling service

- 4.1** The Toquaht garbage and recycling service is established and must be operated in accordance with this Part.

### Scope of service

- 4.2** (a) Subject to sections 4.4 and 4.8, the Toquaht Nation must collect garbage and recycling from all residential properties on the dates, in the manner and on the conditions as may be determined by
- (i) the Executive, by resolution, or
  - (ii) the director, by directive.
- (b) The Toquaht Nation may, after prior approval of the Executive, by resolution, collect garbage and recycling from a non-residential property on the dates, in the manner and on the conditions as may be determined by
- (i) the Executive, by resolution, or
  - (ii) the director, by directive.

### Frequency of service

- 4.3** The Toquaht Nation must collect garbage and recycling from each property serviced by the Toquaht garbage and recycling service
- (a) at regular intervals, and
  - (b) at least 24 times per calendar year.

### Alternate collection service

- 4.4** (a) An interest holder of a residential property
- (i) with a mixed commercial use, or
  - (ii) with four or more residential units
- may arrange to have the garbage and recycling collected from that residential property by a licensed waste removal business, provided that waste removal business collects garbage and recycling from that residential property
- (iii) at regular intervals, and

- (iv) at least 24 times per calendar year.
- (b) An interest holder who arranges to have garbage and recycling collected by a licensed waste removal business under subsection (a), must at least 30 days prior to the commencement of that arrangement provide the director written notice of the arrangement, including
  - (i) the name and address of the waste removal business,
  - (ii) the intervals in which garbage and recycling will be collected from the applicable residential property.

### **Garbage and recycling bins**

- 4.5**
- (a) An interest holder of Toquaht lands or Toquaht foreshore must ensure that any garbage or recycling to be collected from those Toquaht lands or Toquaht foreshore by the Toquaht Nation is contained in the appropriate waste bin no larger than 125 litres and of manageable weight.
  - (b) An interest holder of Toquaht lands or Toquaht foreshore must ensure that any garbage bin provided for those Toquaht lands or Toquaht foreshore is clean and sanitary, with its lid securely fastened to reduce odor, prevent spilling and discourage animals from accessing or attempting to access any garbage in that bin.
  - (c) Subject to subsection (d), an interest holder of a residential unit must ensure that, on a collection day, any waste bin provided for that residential unit under subsection 4.5(c) is placed at the property line for that residential unit
    - (i) between 7:00am and 8:00am, and
    - (ii) at a location easily accessible to the person responsible for collecting garbage or recycling from that residential unit.
  - (d) The director may, on written request from an interest holder, exempt that interest holder from the requirement under subsection (c) if an occupier of that residential unit is unable to place a waste bin at the property line due to age or a disability.

### **Conditions of service**

- 4.6**
- (a) The Toquaht Nation may refuse to collect garbage or recycling from Toquaht lands or Toquaht foreshore serviced by the Toquaht garbage and recycling service if
    - (i) that garbage or recycling is not contained in the appropriate waste bin,

- (ii) a waste bin is not placed at the property line in accordance with subsection 4.5(c),
  - (iii) that garbage or recycling contains a material or substance referred to in section 4.9,
  - (iv) a waste bin exceeds the weight limit marked on that bin.
- (b) The Toquaht Nation may temporarily suspend the Toquaht garbage and recycling service during any work stoppage of Toquaht government employees resulting from a strike, lockout or other dispute.

### **Garbage and recycling fee**

- 4.7**
- (a) On or before June 1 of each year, the director of finance must deliver in accordance with Toquaht law to each interest holder of Toquaht lands or Toquaht foreshore serviced by the Toquaht garbage and recycling service a notice setting out the garbage and recycling fee payable for that year for those Toquaht lands or Toquaht foreshore.
  - (b) One or before July 2 of each year or such other date as may be agreed upon in writing by the director of finance, an interest holder of Toquaht lands or Toquaht foreshore serviced by the Toquaht garbage and recycling service must pay the prescribed garbage and recycling fee to the Toquaht Nation.
  - (c) In the year the Toquaht garbage and recycling service is commenced or discontinued for Toquaht lands or Toquaht foreshore, the garbage and recycling fees for those Toquaht lands or Toquaht foreshore must be prorated from or to the date of commencement or discontinuance, as applicable.
  - (d) If the Toquaht garbage and recycling service is commenced for Toquaht lands or Toquaht foreshore after June 1,
    - (i) the director of finance must, as soon as practicable after the Toquaht garbage and recycling service is commenced, deliver in accordance with Toquaht law to each interest holder of those Toquaht lands or Toquaht foreshore a notice setting out the garbage and recycling fee payable for that year for those Toquaht lands or Toquaht foreshore, prorated in accordance with subsection (c), and
    - (ii) that interest holder must pay the prorated garbage and recycling fee to the Toquaht Nation within 30 days of receipt of that notice or such other date as may be agreed upon in writing by the director of finance.
  - (e) If the Toquaht garbage and recycling service is discontinued for Toquaht lands or Toquaht foreshore after the garbage and recycling fee for that year has been paid,

- the Toquaht Nation must refund any excess paid to the applicable interest holder, prorated in accordance with subsection (c).
- (f) Despite subsection (e), if there are any outstanding garbage and recycling fees for Toquaht lands or Toquaht foreshore discontinued from the Toquaht garbage and recycling service, the director of finance may set off any refund payable under that subsection against
- (i) the outstanding fees, or
  - (ii) any penalty or interest incurred in relation to those fees,
- and refund any balance to the applicable interest holder.
- (g) Despite subsections (c) and (e), the garbage and recycling fee must not be prorated and a refund must not be issued for any temporary discontinuance of the Toquaht garbage and recycling service.
- (h) If a garbage and recycling fee for Toquaht lands remains unpaid on December 31 of the year in which it becomes payable, the outstanding amount
- (i) is deemed to be a tax levied under the Real Property Tax Act, and
  - (ii) incurs penalties and interest and may be collected in accordance with that Act.
- (i) For certainty, the fact that
- (i) an interest holder or occupier of Toquaht lands or Toquaht foreshore does not generate garbage or recycling for all or a portion of a year,
  - (ii) the Toquaht Nation refuses to collect garbage or recycling under section 4.6, or
  - (iii) the Toquaht garbage and recycling service is temporarily suspended under section 4.6,
- does not in any way exempt an interest holder of those Toquaht lands or Toquaht foreshore from any garbage and recycling fee payable under this section.

### **Discontinuance for non-compliance**

- 4.8** (a) In addition to any penalty that may be imposed under this or any other enactment, if an interest holder or occupier of Toquaht lands or Toquaht foreshore serviced by the Toquaht garbage and recycling service contravenes this Part, the director may, after prior approval of the Executive, by resolution, and 30 days' written



notice to each interest holder or known occupier of those Toquaht lands or Toquaht foreshore,

- (i) discontinue the Toquaht garbage and recycling service for those Toquaht lands or Toquaht foreshore, and
  - (ii) establish the terms or conditions on which the Toquaht garbage and recycling service may be recommenced for those Toquaht lands or Toquaht foreshore.
- (b) A notice under subsection (a) must be delivered in accordance with Toquaht law to the applicable interest holder or occupier.
- (c) An interest holder or occupier may, within 14 days of receipt of a notice under subsection (a), request a review of that notice under the Administrative Decisions Review Act.

### **Prohibitions**

- 4.9**
- (a) A person must not place anything other than garbage into a garbage bin.
  - (b) A person must not place anything other than recycling into a recycle bin.
  - (c) A person must not place into a waste bin any
    - (i) construction waste,
    - (ii) furniture or appliance,
    - (iii) motor vehicle tire or motor vehicle body,
    - (iv) farm equipment,
    - (v) derelict vessel,
    - (vi) explosive or radioactive material or substance,
    - (vii) petroleum product,
    - (viii) industrial chemical waste,
    - (ix) substance that is on fire or smoldering,
    - (x) dead animal or part of a dead animal, including road kill or a pet but excluding food waste, or
    - (xi) any other material or substance as may be prescribed.

- (d) A person must not place any damp or wet garbage into a garbage bin unless that garbage is securely wrapped or sealed so as to not leak.
- (e) A person must not break, damage, destroy or deface any waste bin.
- (f) A person must not deposit garbage or recycling from a residential property or business into a public garbage or recycling receptacle operated by or on behalf of the Toquaht Nation.

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## **PART 5 - TOQUAHT INTERNET SERVICE**

### **Toquaht internet service**

- 5.1** The Toquaht internet service is established and must be operated in accordance with this Part.

### **Connection application**

- 5.2** An interest holder of Toquaht lands or Toquaht foreshore may apply to have a building or structure on those Toquaht lands or Toquaht foreshore connected to the Toquaht internet works by submitting an internet connection application in the prescribed form, together with the prescribed internet connection fee, to the director.

### **Decision on application**

- 5.3** On receipt of an internet connection application, together with the applicable internet connection fee, the director may approve or deny the application in his or discretion with or without conditions and after considering the following factors:
- (a) whether the capacity of the Toquaht internet works is sufficient to provide service to the building or structure set out in the application;
  - (b) whether an extension of the Toquaht internet works would be required to provide service to the building or structure set out in the application; and
  - (c) the ability of the applicant to pay the internet service fee.

### **Notice of decision**

- 5.4** As soon as practicable after receipt of an internet connection application, together with the applicable internet connection fee, the director must deliver in accordance with Toquaht law to the applicant notice of his or her decision on the application.

### **Direction to connect or refund**

- 5.5**
- (a) If the director approves an internet connection application, the director must, as soon as practicable after that approval, direct that the building or structure set out in the application be connected to the Toquaht internet works.
  - (b) If the director denies an internet connection application, the Toquaht Nation must, as soon as practicable after that denial, refund any internet connection fee paid for that application.

**Extensions**

- 5.6** (a) An interest holder of Toquaht lands or Toquaht foreshore may apply to have the Toquaht internet works extended to a point opposite those Toquaht lands or Toquaht foreshore by submitting an internet extension application in the prescribed form to the director.
- (b) On receipt of an internet extension application, the director may approve or deny the application in his or discretion with or without conditions, including for certainty a condition that the applicant pay an internet extension deposit to the Toquaht Nation prior to the Toquaht Nation proceeding with the extension, and after considering the following factors:
- (i) whether the capacity of the Toquaht internet works is sufficient to provide service to the building or structure set out in the application,
  - (ii) whether the cost of operating and maintaining that internet extension would not be excessive relative to the revenues from buildings or structures serviced by that internet extension,
  - (iii) the ability of the applicant to pay the internet extension fee or the internet service fee.
- (c) As soon as practicable after receipt of an internet extension application, the director must deliver in accordance with Toquaht law to the applicant notice of his or her decision on the application.
- (d) If the director approves an internet extension application, on receipt of any internet extension deposit, the director must direct that the Toquaht internet works be extended to a point opposite the Toquaht lands or Toquaht foreshore set out in the application.
- (e) Within 30 days after an internet extension is installed or constructed in accordance with this section or on such other date as may be agreed upon in writing by the director of finance, the applicable interest holder must pay to the Toquaht Nation the internet extension fee determined by the director, less any internet extension deposit paid for that internet extension, and that amount may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.
- (f) If the director denies an internet extension application, the Toquaht Nation must, as soon as practicable after that denial, refund any internet extension deposit or internet extension fee paid for that application.

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### **Internet service fee**

- 5.7** (a) Each interest holder of Toquaht lands or Toquaht foreshore serviced by the Toquaht internet works must pay the prescribed internet service fee to the Toquaht Nation on or before the prescribed times.
- (b) For certainty, the fact that
- (i) the Toquaht internet service is not used for all or a portion of the applicable payment period, or
  - (ii) the Toquaht internet service is temporarily suspended
    - (A) by the Toquaht Nation under section 5.12(b), or
    - (B) due to any damage to or failure, breakdown or malfunction of the Toquaht internet works,
- does not in any way exempt an interest holder from any internet service fee payable under this section.

### **Disconnection on request**

- 5.8** (a) An interest holder of a building or structure serviced by the Toquaht internet works may apply to have that building or structure disconnected from the Toquaht internet works temporarily or permanently by submitting an internet disconnection application in the prescribed form to the director.
- (b) On receipt of an internet disconnection application, the director must direct that the building or structure set out in the application be disconnected from the Toquaht internet works.

### **Disconnection for non-compliance**

- 5.9** (a) In addition to any penalty that may be imposed under this or any other enactment, if an interest holder or occupier of a building or structure serviced by the Toquaht internet works contravenes this Part, the director may, after prior approval of the Executive, by resolution, and 30 days' written notice to each interest holder and known occupier of that building or structure,
- (i) cause that building or structure to be disconnected from the Toquaht internet works, and
  - (ii) establish the terms or conditions on which that building or structure may be reconnected to the Toquaht internet works.

- (b) A notice under subsection (a) must be delivered in accordance with Toquaht law to the applicable interest holder or occupier.
- (c) An interest holder or occupier may, within 14 days of receipt of a notice under subsection (a), request a review of that notice under the Administrative Decisions Review Act.

### **Prohibitions**

- 5.10**
- (a) A person must not connect or attempt to connect any building or structure, or allow or cause any building or structure to be connected, to the Toquaht internet works except in accordance with this Part.
  - (b) A person must not break, damage, destroy, deface, remove, uncover, open, close or tamper with any part of the Toquaht internet works unless authorized under this Act, by the director or under an agreement with the Toquaht Nation.
  - (c) A person must not provide false information or omit any relevant information
    - (i) in any application under this Part, or
    - (ii) to the director, a trained public works operations and maintenance worker, the director of finance or an enforcement officer in the performance of his or her duties or the exercise of his or her powers under this Part.

### **Inspection**

- 5.11**
- (a) The director, a trained public works operations and maintenance worker, or an enforcement officer may, at any reasonable time,
    - (i) enter any Toquaht lands or Toquaht foreshore, including any building or structure on those Toquaht lands or Toquaht foreshore,
    - (ii) make reasonable inspections of those Toquaht lands or Toquaht foreshore, or
    - (iii) make reasonable inquiries of any interest holder or occupier of those Toquaht lands or Toquaht foreshore,to ascertain whether or not this Part is being complied with.
  - (b) A person must not interfere with or obstruct the director, trained public works operations and maintenance worker, or an enforcement officer in the performance of his or her duties or the exercise of his or her powers under subsection 2.21(a).

**No liability for change in operating conditions**

- 5.12** (a) The Toquaht Nation does not guarantee continuity or adequacy of the Toquaht internet works.
- (b) The Toquaht Nation may, at any time without notice, change the operating conditions of the Toquaht internet works or temporarily suspend the Toquaht internet works for any purpose, including maintenance, repairs, upgrades or replacements.
- (c) The Toquaht Nation is not liable for any loss, damage, expense, death or injury, including bodily injury, sustained by any person as a result of any change in the operating conditions of the Toquaht internet works or temporary suspension of the Toquaht internet works.





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## PART 6 - GENERAL PROVISIONS

### Regulations

- 6.1** The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.

### Other Toquaht services

- 6.2** The Executive may, by regulation, establish and regulate the provision of any other Toquaht service, which regulation may prescribe
- (a) the terms or conditions on which that service is provided,
  - (b) fees for or in relation to that service or how fees for or in relation to that service will be established or calculated, and
  - (c) any other matter the Executive considers necessary or advisable for the efficient, effective and fair provision of that service.

### Consultation on Toquaht services

- 6.3**
- (a) If a Toquaht enactment
    - (i) establishes a new Toquaht service, or
    - (ii) significantly alters the regulation of an existing Toquaht service,that enactment must not be enacted until
    - (i) notice of the proposed enactment has been posted in accordance with Toquaht law for at least 30 days, and
    - (ii) notice of the proposed enactment has been published in accordance with Toquaht law.
  - (b) A notice under subsection (a) must provide an opportunity for at least 30 days to persons affected by the enactment to make representations to Council, the Executive or the director, as applicable, concerning the proposed enactment.
  - (c) Council, the Executive or the director, as applicable, must give full and fair consideration to any representations received in accordance with subsection (b) prior to enacting the enactment.

**Offences**

- 6.4** (a) Every person who contravenes this Act commits an offence and is liable, on summary conviction, to a fine not exceeding \$10,000 or imprisonment for a term not exceeding six months.
- (b) Each day a contravention of this Act continues is a separate offence.

**Transition**

- 6.5** Until the first anniversary of the date this Act comes into force, the director of finance may, with the approval of the Director of Operations, reduce or waive a fee prescribed under this Act in circumstances where the director of finance decides it would be unfair or unreasonable to require an interest holder to pay a fee in the prescribed amount.

**Housing Authority Act repealed**

- 6.6** (a) Subject to subsections (b) and (c), the Housing Authority Act TNS 1/2013 and, for certainty, any regulations made under that Act, are repealed.
- (b) The Toquaht government assumes all right, title and interest, whether legal or beneficial, absolute or contingent, of the Toquaht Housing Authority Corporation in and to
- (i) all property of the Toquaht Housing Authority Corporation, real or personal, of every kind and wherever located owned or held by the Toquaht Housing Authority Corporation, if any,
  - (ii) all debts, accounts, claims, demands and money now due or owing or accruing due or which may afterwards become due or owing to the Toquaht Housing Authority Corporation, if any,
  - (iii) all contracts or agreements of any kind, including rental agreements, and all other rights, benefits and privileges now or afterwards taken, vested in or held by the Toquaht Housing Authority Corporation, and
  - (iv) all rights of action, claims or demands which the Toquaht Housing Authority Corporation now has or may at any time afterwards have against any person.
- (c) The Toquaht government will assume, pay, discharge, perform and be responsible for all obligations, liabilities and claims of any nature, accruing, arising out of, or relating to the Toquaht Housing Authority Corporation and its business, whether actual or contingent, matured or unmatured, liquidated or unliquidated, or known or unknown.

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## Commencement

- 6.7** (a) Subject to subsections (b) to (e), this Act comes into force by Order of the Executive.
- (b) An Order of the Executive under subsection (a) must not be made until
- (i) notice of that Order and a copy of this Act have been posted in accordance with Toquaht law for at least 30 days, and
- (ii) notice of that Order has been published in accordance with Toquaht law.
- (c) A notice under subsection (b) must provide an opportunity for at least 30 days to persons affected by this Act to make representations to the Executive concerning this Act.
- (d) The Executive must give full and fair consideration to any representations received in accordance with subsection (c) and may, by regulation, make necessary amendments to the Act to address any concern raised by a representation received in accordance with subsection (c).
- (e) Section 6.6 comes into force on the date this Act is enacted.