UCHUCKLESAHT TRIBE GOVERNMENT

APPLICATION OF LAWS TO FORESHORE ACT

UTS 30/2014

This law enacted on **May 2, 2014**

Signed _____

Charlie Cootes, Chief Councillor of the Uchucklesaht Tribe

DEPOSITED IN THE REGISTRY OF LAWS

ON 05 / 02 / 2014
M D Y

Carla Halvorsen
Signature of Law Clerk

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PREAMBLE

The Uchucklesaht Tribe and British Columbia entered into an amended Uchucklesaht Tribe Foreshore Agreement. The Amended Foreshore Agreement expands the law making authority of the Uchucklesaht Tribe over Uchucklesaht foreshore and alters the enactment and enforcement process required by the former Foreshore Agreement to enact and enforce Uchucklesaht law applicable to Uchucklesaht foreshore.

It is the desire of the Uchucklesaht Tribe that there be certainty as to the applicability of existing Uchucklesaht law to Uchucklesaht foreshore. Certainty concerning the applicability of Uchucklesaht law to Uchucklesaht foreshore is desirable for transparent and accountable government processes and for the better governance of the Uchucklesaht Tribe.

The Uchucklesaht Tribe adopt this Act based on these values.

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Application of Laws to Foreshore Act.

Executive oversight

1.2 The chief councillor is responsible for the executive oversight of this Act.

Application

1.3 (a) This Act is enacted as contemplated in 14.5.0 of Chapter 14 Regional Government of the Maa-nulth Treaty and under the Amended Foreshore Agreement.

(b) Unless otherwise provided in this Act or another Uchucklesaht enactment, this Act applies to all Uchucklesaht foreshore.

Definitions

1.4 In this Act,

"Amended Foreshore Agreement" means the agreement entered into between the Uchucklesaht Tribe and British Columbia in accordance with 14.5.1 of Chapter 14 Regional Government of the Maa-nulth Treaty and dated for reference December 3, 2013;

"Foreshore Agreement" means the agreement entered into between the Uchucklesaht Tribe and British Columbia in accordance with 14.5.1 of Chapter 14 Regional Government of the Maa-nulth Treaty and dated for reference April 1, 2011.

PART 2 - APPLICATION OF LAWS TO FORESHORE

Applicability of certain enactments

2.1 (a) The following Uchucklesaht enactments apply to Uchucklesaht foreshore with the necessary changes required and so far as applicable:

(i) the Planning and Land Use Management Act;

(ii) the provisions of the Environmental Protection Act applicable to those matters referred to section 3.8(b) of the Amended Foreshore Agreement;

(iii) the Environmental Protection Act other than the provisions referred to in paragraph (ii);

(iv) the Enforcement Act;

(v) the Building and Development Authorization Act;

(vi) the Moorage Act; and

(vii) the Public Order, Peace and Safety Act.

(b) A reference to Uchucklesaht lands in the enactments listed in subsection (a) is deemed to include a reference to Uchucklesaht foreshore unless the context requires otherwise or it is otherwise indicated.

Applicability of other enactments

2.2 Nothing in this Act restricts the application of a Uchucklesaht enactment to a person or activity on Uchucklesaht foreshore to which that enactment would otherwise apply.

Penalties

2.3 A penalty under the enactments listed in section 2.1(a) must not exceed the limits referred to in section 3.11 of the Amended Foreshore Agreement.

Interpretation of enactments

2.4 For certainty, except in this Act, where the context requires otherwise or is otherwise indicated, a reference in a Uchucklesaht enactment to the Foreshore Agreement is a reference to the Amended Foreshore Agreement.

PART 3 - GENERAL PROVISIONS

Regulations

3.1 The Executive may make regulations which it considers necessary or advisable for the purposes of this Act, including regulations setting out necessary amendments to an enactment listed in section 2.1(a) for that enactment to apply to Uchucklesaht foreshore in accordance with this Act.

Enactment or amendment of laws applicable to foreshore

3.2 (a) In accordance with the Amended Foreshore Agreement, before an amendment is made to this Act or an enactment listed in section 2.1(a), the Uchucklesaht government must first

(i) discuss that amendment with any person, including local governments and other authorities and organizations, and

(ii) consult with individuals ordinarily resident in the Uchucklesaht foreshore concerning the amendment,

if they may be directly and significantly affected by that amendment.

(b) In accordance with the Amended Foreshore Agreement, before enacting a Uchucklesaht enactment in relation to Uchucklesaht foreshore or any subsequent amendment to that enactment, the Uchucklesaht government must first

(i) discuss that enactment or amendment with any person, including local governments and other authorities and organizations, and

(ii) consult with individuals ordinarily resident on Uchucklesaht foreshore concerning that enactment or amendment,

if they may be directly and significantly affected by that enactment or amendment.

(c) For certainty, despite subsections (a) and (b) and in accordance with the Amended Foreshore Agreement, the law-making authority of the Uchucklesaht government under the Amended Foreshore Agreement in relation to Uchucklesaht foreshore is subject to the same conditions, requirements and restrictions as a municipality in exercising law-making authority under provincial law including

(i) providing notice and an opportunity to make representations to persons affected by a proposed Uchucklesaht enactment or a decision made under a Uchucklesaht enactment in relation to Uchucklesaht foreshore, and

(ii) when applicable, seeking the approval of Uchucklesaht citizens and non-members ordinarily resident on Uchucklesaht foreshore to a proposed Uchucklesaht enactment or a decision made under a Uchucklesaht enactment in relation to Uchucklesaht foreshore.

Commencement

3.3 (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 has been posted in accordance with Uchucklesaht law for at least 30 days,

(ii) notice of that Order has been published in accordance with Uchucklesaht law, and

(iii) notice of that Order and a copy of this Act has been delivered in accordance with Uchucklesaht law to British Columbia and the Alberni-Clayoquot Regional District.

(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 an enactment listed in section 2.1(a) in relation to Uchucklesaht foreshore to address any concern raised by a representation received in accordance with subsection (c).

(e) Section 2.1(a)(iii) comes into force on the date the responsible minister referred to in section 3.8(a) of the Amended Foreshore Agreement gives approval to the application of those provisions of the Environmental Protection Act to Uchucklesaht foreshore.