



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 04-57

of the

SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; and

WHEREAS, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe; and

WHEREAS, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government; and

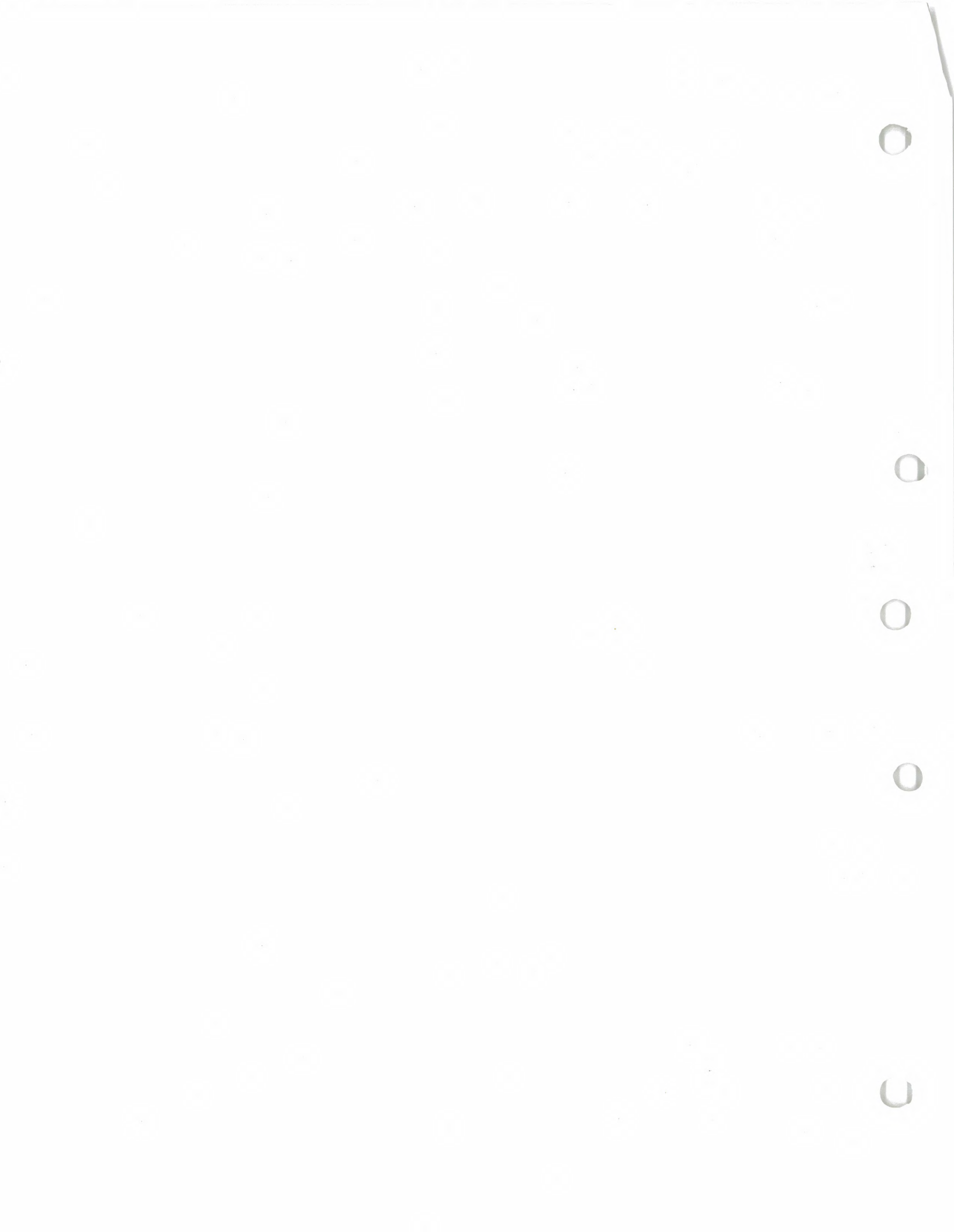
WHEREAS, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe; and

WHEREAS, all areas on the Squaxin Indian Reservation, including particularly Squaxin Island, are subject to or at the risk of alteration by human activity; and

WHEREAS, the Squaxin Island Tribal Council wishes to allow access over, on and across aquatic and land areas in a manner that preserves the tidelands and bed lands of Squaxin Island; and

WHEREAS, natural lands, together with the plants and animals living thereon in natural ecological systems, are valuable for numerous purposes, including scientific research, teaching, as habitats of rare and vanishing species, as places of natural historic and natural interest and scenic beauty, cultural continuity and as living museums of the original heritage of the state; and

WHEREAS, Squaxin Island, the original reserve of the Squaxin Island Tribe, is a unique aquatic and land area, initially reserved to the Tribe by the Treaty of Medicine Creek, the site of the



interplay of conflicting federal land use and ownership policies, and the ancestral land, and subsequent forced locale of the peoples presently known as the Squaxin Island Tribe; and

WHEREAS, the Island remains a natural area preserve, has not suffered any significant alteration by human activity and continues to be held by the Tribe as a place of important and enduring historical, cultural, environmental and biological value;

WHEREAS, it is the policy of the Squaxin Island Tribe to secure for the people of present and future generations the benefit of an enduring resource of the Island by providing for the protection of its tidelands.


NOW THEREFORE BE IT RESOLVED, that the Squaxin Island Tribal Council hereby adopts the Tidelands Access Code – Permit Only (copy attached hereto).

CERTIFICATION

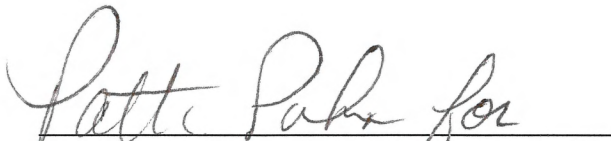
The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 26th day of August, 2004, at which time a quorum was present and was passed by a vote of 5 for and 0 against, with 0 abstentions.



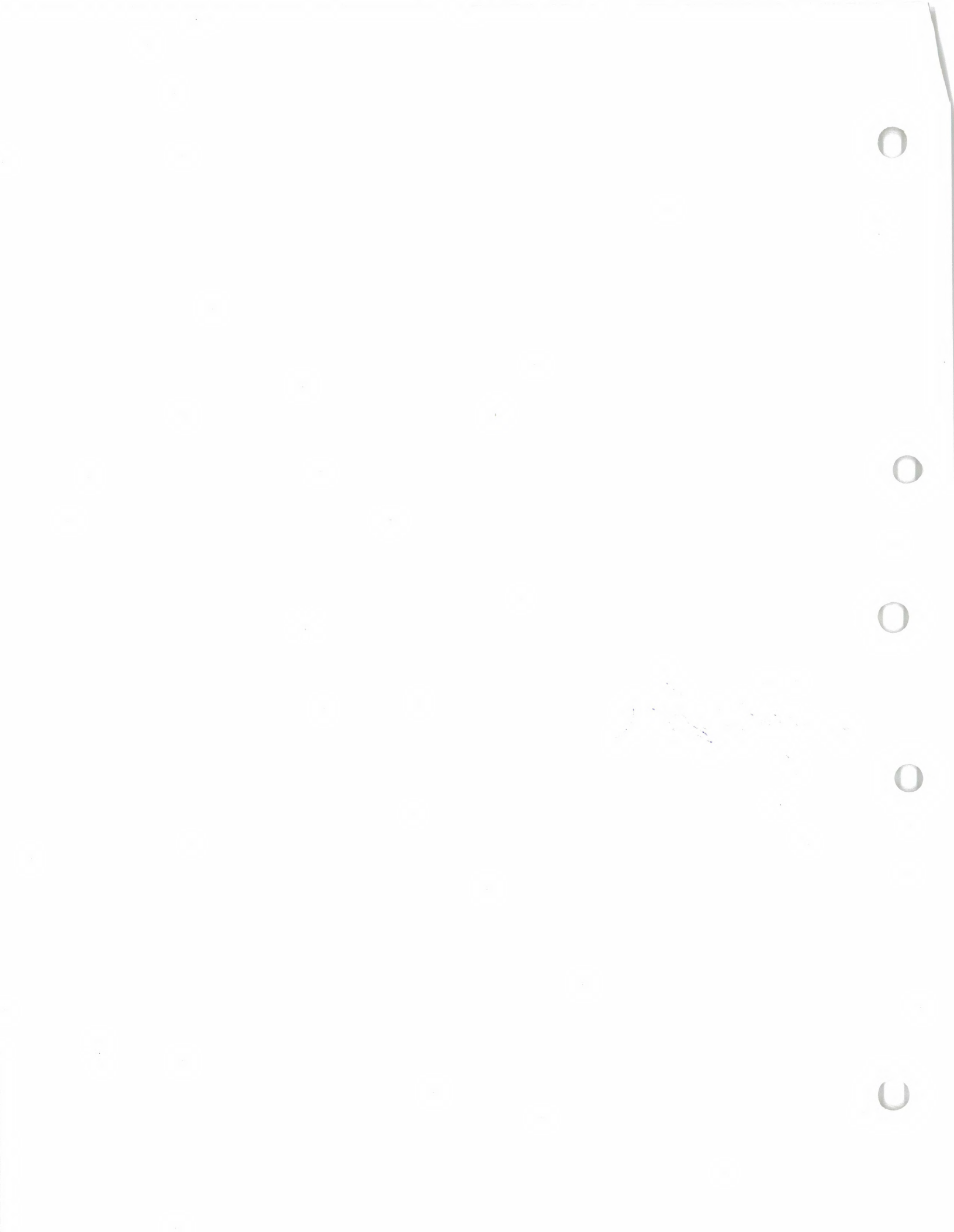
David Lopeman, Chairman

Attested by: 

Vincent Henry, Sr., Secretary



Andy Whitener, Vice Chairman



Chapter 7.32

SQUAXIN ISLAND TIDELANDS ACCESS CODE (authority to develop regulations to implement and to grant permits for access only)

Sections:

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7.32.010 Authority

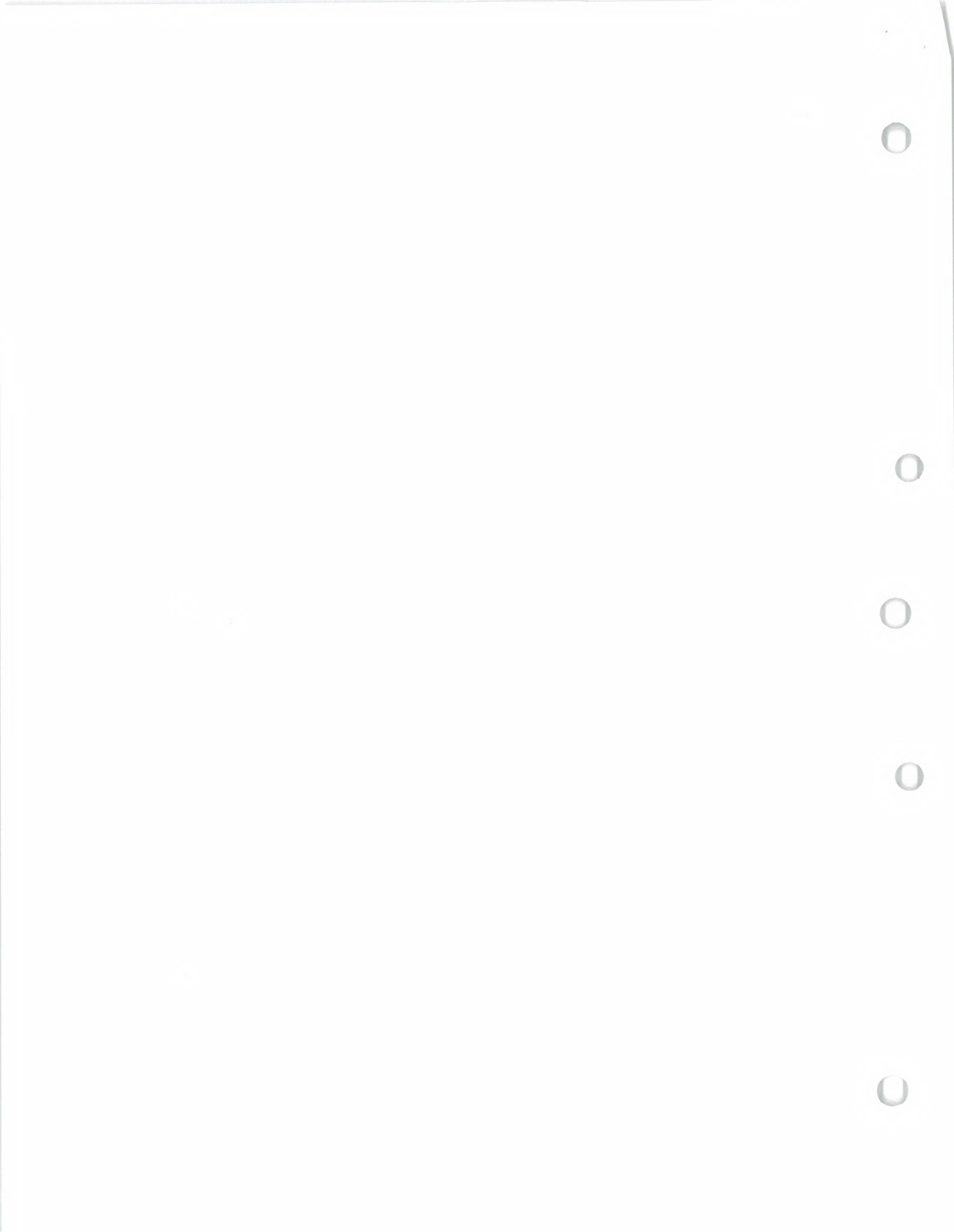
The Squaxin Island Tribal Council's authority to adopt the ordinance codified in this title is found in the Squaxin Island Tribal Constitution and in the inherent sovereignty of the Squaxin Island Tribe to regulate its own territory and activities therein.

7.32.020 Purpose

The purpose of this chapter is to allow access, over, on and across aquatic and land areas in a manner that preserves the tidelands and bed lands of Squaxin Island.

All areas on the Squaxin Island Indian Reservation, including particularly Squaxin Island are subject to or at the risk of alteration by human activity. Natural lands, together with the plants and animals living thereon in natural ecological systems, are valuable for numerous purposes, including scientific research, teaching, as habitats of rare and vanishing species, as places of natural historic and natural interest and scenic beauty, cultural continuity and as living museums of the original heritage of the Squaxin Island Tribe and its predecessors.

The original reserve of the Squaxin Island Tribe, Squaxin Island is a unique aquatic and land area, initially reserved to the Tribe by the Treaty of Medicine Creek, the site of the interplay of conflicting federal land use and ownership policies, and the ancestral land,



and subsequent forced locale of the peoples presently known as the Squaxin Island Tribe. The Island remains a natural area preserve and has not suffered any significant alteration by human activity. The Island continues to be held by the Tribe as place of important and enduring historical, cultural, environmental and biological value.

It is, therefore, the policy of the Squaxin Island Tribe to secure for the people of present and future generations the benefit of an enduring resource of the Island by providing for the protection of its tidelands.

7.32.030 Scope

A. Application. This chapter shall apply to the full extent of the sovereign jurisdiction of the Squaxin Island Tribe in Indian country.

B. Compliance with this chapter is hereby made a condition of the use of any tidelands or bed lands of Squaxin Island.

C. Deemed to Consent. Any person who resides, conducts business, engages in a business transaction, receives benefits from the Tribal government, including police, fire or emergency services, acts under Tribal authority, or enters the Indian country under the jurisdiction of the Squaxin Island Tribe, including Squaxin Island, shall be deemed thereby to have consented to the following:

1. To be bound by the terms of this chapter;
2. To the exercise of civil jurisdiction by the Squaxin Island Tribal Court over said person in legal actions arising pursuant to this chapter; and
3. To detainment, service of summons and process, and search and seizure, in conjunction with legal actions arising pursuant to this chapter.

7.32.040 Definitions

The following definitions apply throughout this chapter unless otherwise specified or the context clearly indicates otherwise:

“Department” means the Squaxin Island Department of Natural Resources.

“Indian country”, consistent with the meaning given in 18 U.S.C. 1151 means:

- (a) All land within the limits of the Squaxin Island Indian Reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights of way running through the reservation; and
- (b) All Indian allotments or other lands held in trust for a Squaxin Island Tribal member or the Tribe, the Indian titles to which have not been extinguished, including rights of way running through the same.

“Line of navigability” means a measured line at that depth sufficient for ordinary navigation as determined by the Department.

"Ordinary high water" means, for the purpose of asserting tribal ownership, the line of permanent upland vegetation along the shores of navigable waters. In the absence of vegetation, it is the line of mean high water.

"Person" means and includes any natural individual, company, partnership, firm, joint venture, association, corporation, estate, trust, political entity, or other identifiable entity.

"Squaxin Island Indian Reservation" or "reservation" means the area recognized as the Squaxin Island Indian Reservation by the United States Department of the Interior.

"State" means the state of Washington.

"Tidelands" means tidelands and shore lands of Squaxin Island and includes bed lands of navigable waters. The term "beds of navigable waters" means those lands lying water ward of and below the extreme low tide mark in navigable tidal waters; the term shore lands means the shores of a navigable lake or river belonging to the state, not subject to tidal flow, lying between the line of ordinary high water and the line of navigability; the term tidelands means lands lying between the line of ordinary high water and the line of navigability.

"Tribal Council" means the Squaxin Island Tribal Council.

"Tribe" or "Tribal" means or refers to the Squaxin Island Tribe.

7.32.050 Squaxin Island Tidelands Access - Authorized

Access over, on and across the tidelands of the Squaxin Island Indian Reservation is authorized by this Chapter consistent with the requirements hereunder.

7.32.060 Squaxin Island Tidelands Access – Permits for access

Whenever the Department finds that it is for the best interest of the Tribe, the Department may grant permits for the use of tidelands for access to any person. Any permit issued under the authority of this section shall be subject to reasonable regulation by the Department. Such regulation may include, but is not limited to, the following matters:

1. Requirements for construction, reconstruction, maintenance, and repair;
2. Limitations as to extent and time of use;
3. Provision for revocation at the discretion of the Department; and
4. Charges for use, including but not limited to rent.

7.32.070 General Requirements

All requirements in this section shall apply to the Department.

All necessary tribal, federal, state and local permits for upland and or tideland use (including for example but not limited to cultural, forest resources, and environmental) shall be acquired by those proposing to access Squaxin Island tidelands. Copies of permits must be furnished to the Department prior to authorizing the access of Squaxin Island tidelands.

Aquatic land use, other than access as authorized hereunder, shall not be authorized.

Uses which cause adverse environmental impacts may be authorized on Squaxin Island tidelands only upon compliance with applicable environmental laws and regulations and appropriate steps taken as may be directed are taken to mitigate damage to the environment.

7.32.080 Powers of Department

In order to set aside, preserve, and protect the tidelands, the Department is authorized, in addition to any other powers, to:

1. Establish the regulations, procedures, and fees necessary to implement this chapter, subject to approval by the Tribal Council.
2. Cooperate or contract with any federal, state, or local governmental agency, private organizations, or individuals in carrying out the purpose of this chapter.
3. Establish exemptions for members of the Squaxin Island Tribe.
4. [reserved]

7.32.090 Abutting property - No additional rights conferred or created

Nothing in this section shall confer upon, create, or recognize in any abutting owner any right or privilege in or to any tideland and or waterway, but the control of and the right to use such tideland and or waterway is hereby reserved.

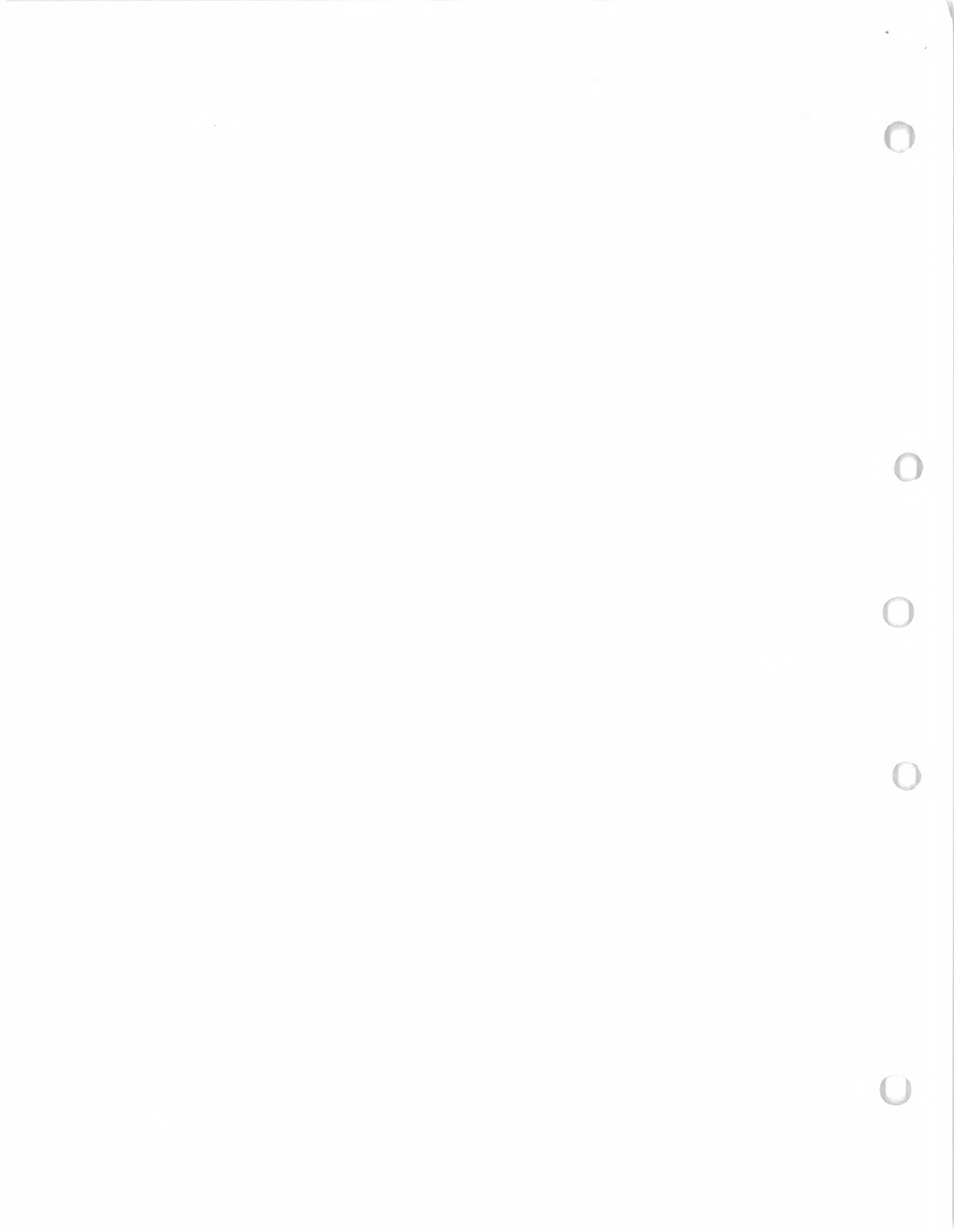
7.32.100 Unauthorized uses.

Unauthorized uses of tribally owned tidelands may result in financial losses to the Tribe, adverse impact to the lands, potential increases in liability, and or loss of significant cultural, environmental and or biologic values.

The following uses are not authorized:

1. Any use or access without first obtaining the permit required by this chapter;
2. Trespassing or stealing resources;
3. Not complying with the terms of a permit;
4. Failing to pay fees or rent;
5. Exposing the Tribe to legal liability for violations of cultural or environmental or other laws; and or
6. Conducting activities which present a public safety hazard.

7.32.110 Unauthorized Uses – Misdemeanor



Every person being in lawful possession of any Squaxin Island tidelands, under and by virtue of any permit, takes or removes, or causes to be taken or removed therefrom, or maliciously injures or severs anything attached thereto, or the produce thereof, or digs, quarries, mines, takes or removes therefrom, any shellfish (whether or not embedded), earth, soil, clay, sand, gravel, stone, mineral or other valuable material, or causes the same to be done, or otherwise injures, defaces or damages, or cause to be injured, defaced or damaged, any such lands unless expressly authorized to do so by the permit under which he holds possession of such lands shall be guilty of a misdemeanor.

7.32.120 Unauthorized Uses – Trespass, wasted damages – Prosecution

Every person who, without authorization, uses or occupies Squaxin Island tidelands, removes any valuable material from Squaxin Island tidelands, or causes waste or damage to Squaxin Island tidelands, or injures tribally owned personal property or tribally owned improvements to real property on Squaxin Island tidelands, is liable to the Tribe for treble the amount of the damages. However, liability shall be for single damages if the Department determines, or the person proves upon trial, that the person, at time of the unauthorized act or acts, did not know, or have reason to know, that he or she lacked authorization. Damages recoverable under this section include, but are not limited to, the market value of the use, occupancy, or things removed, had the use, occupancy, or removal been authorized; and any damages caused by injury to the land, tribally owned personal property or tribally owned improvement, including the costs of restoration. In addition, the person is liable for reimbursing the Tribe for its reasonable costs, including but not limited to, its administrative costs, survey costs to the extent they are not included in damages awarded for restoration costs, and its reasonable attorneys' fees and other legal costs.

The Department is authorized and directed to investigate all trespasses and wastes upon, and damages to, Squaxin Island tidelands, and to cause prosecutions for, and/or actions for the recovery of the same to be commenced as is provided by law.

7.32.130 Island Access - Prior Resolutions

Prior Tribal Council resolutions dealing with the Squaxin Island tidelands access are superseded by this chapter.

7.32.140 Short Title

This act shall be known and cited as the Squaxin Island Tidelands Access Code.

7.32.150 Severability

If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances, is not affected.

