



# Kitasoo/Xai'xais Stewardship Authority

## Kitasoo/Xai'xais Cultural Heritage Policy Treatment of Ancestral Remains

### BACKGROUND

Within Kitasoo/Xai'xais cultural teachings there are extensive and detailed protocols and cultural practices for burial and treatment of the dead. We have never had a tradition of disturbing or un-earthing ancestral human remains. However, we recognize that there are various contexts that may result in disturbance to ancestral human remains, including:

- incidental discovery
- development-related disturbance
- disturbance resulting from natural factors (*e.g.* river erosion)
- archaeological investigation
- repatriation

Out of respect for our ancestors and their teachings is essential not to disturb ancestral remains, and where a disturbance has occurred it is important to follow proper protocols that show respect toward our ancestors and respect for any human remains discovered within Kitasoo/Xai'xais territory (Figure 1). As a guiding principle we believe that all Indigenous ancestral human remains hold important spiritual significance to our people.

The integrity of indigenous ancestral human remains and known ancestral burial sites are also protected through the *Heritage Conservation Act* (section 13).

### PURPOSE

This policy on treatment of Kitasoo/Xai'xais ancestral human remains was created to provide guidance for the protection and respectful treatment of ancestral human remains and burial sites found within Kitasoo/Xai'xais territory. The intent of these procedures is to ensure that human remains are treated with dignity at all times, and when applicable, are accorded appropriate handling as specified by the Kitasoo/Xai'xais Nation.

### POLICY STATEMENT

To protect sacred burial sites and ancestral human remains the Kitasoo/Xai'xais Nation adopts and will enforce the following policies:

1. Anyone working, visiting or residing within Kitasoo/Xai'xais territory will abide by Kitasoo/Xai'xais Indigenous laws, customs and policies regarding the respectful

treatment of human remains.

2. Ancestral burial sites within Kitasoo/Xai'xais territory are off-limits to all visitors and to all plans for development. Special permission will be required prior to visiting areas containing a known burial site.
3. Knowledge of the location of ancestral burial sites is sacred and carries substantial responsibility and obligation toward the protection of that site. This responsibility includes keeping the locations of burial sites completely confidential – meaning under no circumstance can you share the location of this site with anyone.
4. Precautions must be taken in the course of planning all projects and developments within Kitasoo/Xai'xais territory to avoid the disturbance of known burial sites and ancestral human remains.
5. All human remains encountered within Kitasoo/Xai'xais territory are to be treated as the ancestral human remains of the Kitasoo/Xai'xais until available evidence indicates otherwise.
6. It is preferable that any ancestral human remains discovered within Kitasoo/Xai'xais territory remain “in situ”, or where and as they are found.
7. The repatriation and interment of ancestral remains will occur as quickly as possible and in the same location from where they originated, if practical.
8. In the event of an inadvertent discovery of ancestral human remains within Kitasoo/Xai'xais territory the steps outlined in this policy are to be followed.

#### **APPLICABILITY**

These policies and protocols apply to anyone working, visiting or residing within Kitasoo/Xai'xais territory.

#### **PROTOCOLS TO PREVENT DISTURBANCE OF ANCESTRAL HUMAN REMAINS**

It is expected that anyone planning on carrying out activities or developments within Kitasoo/Xai'xais territory will take precautions early on in the planning phase to ensure that any planned activities or developments will not overlap with known burial sites within Kitasoo/Xai'xais territory. This rule applies to anyone carrying out activities within our territory including anyone working under the Kitasoo/Xai'xais Nation Council, and companies owned by the Kitasoo/Xai'xais Nation.

To avoid conflicts with known burial sites it is the responsibility of the project planner to initiate engagement with the Kitasoo/Xai'xais Stewardship Authority early on in the planning process.

Under this policy it is the responsibility of the Kitasoo/Xai'xais Stewardship Authority to:

- maintain up-to-date records of known burial sites;
- to insure that proponents provide detailed spatial information during engagement;
- to check the location of the project against known protected and reserved areas, including burial sites; and,
- to inform proponents early on in the engagement process when a proposed project overlaps or may conflict with a protected area.

#### **STEPS TO TAKE UPON INCIDENTAL DISCOVERY OF HUMAN REMAINS**

The following actions are to be taken if at any time potential Kitasoo/Xai'xais ancestral human remains are discovered within Kitasoo/Xai'xais territory:

##### ***Discovery and Notification***

1. Immediately halt any operations/activities at or near the site where the human remains have been discovered.
2. Leave the human remains in situ – do not disturb, damage, move, or remove human remains;
3. Immediately report the discovery of the human remains to the Kitasoo/Xai'xais Stewardship Authority, the Kitasoo/Xai'xais Nation Council, and the Royal Canadian Mounted Police (RCMP). In your report share the following details of the discovery:
  - a. location including UTM coordinates;
  - b. time and date of discovery;
  - c. a description of the activities that led to the discovery; and,
  - d. a description of how the site was left/measures taken to protect the site from further disturbance.
4. If you are operating under a land use licence or permit it may be a requirement to report the site to the Ministry that issued your licence and/or permit.
5. The Kitasoo/Xai'xais Stewardship Authority shall identify and contract with an Archaeologist and the Nation's Cultural Advisors/Representatives. These representatives will be responsible for adherence to Kitasoo/Xai'xais traditional practices, the guidelines in this policy, and any applicable provincial or federal laws.

##### ***Site Protection and Identification***

6. Carrying out their legal obligation the RCMP/Coroner will investigate the site and make a preliminary determination as to the nature of the remains – including determining if

the remains are human, and if human if they are modern or ancient. This determination of the nature of the remains shall be limited to non-destructive observational analysis to the extent possible.

NOTE: Kitasoo/Xai'xais may wish to appoint their Archaeologist and/or Cultural Advisors/Representatives to assist the RCMP/Coroner with their preliminary assessment of the site and/or their subsequent investigation.

7. If the site and/or human remains is of a criminal or forensic nature (potential crime scene or missing person), then the Coroner's office and police will assume authority over the site/remains.
8. If the site and/or human remains is not of a criminal or forensic nature, then the Kitasoo/Xai'xais appointed Archaeologist and Cultural Advisors/Representatives will assume responsibility for the protection and investigation of the site. During the initial site inspection representatives of the Kitasoo/Xai'xais Nation may also determine and collect evidence of desecration, or violations of the Heritage Conservation Act.
9. The Kitasoo/Xai'xais Stewardship Authority will develop an agreement between Kitasoo/Xai'xais and the Provincial Archaeology Branch and/or authorities/police regarding any investigation, excavation, examination, and removal of the remains.
10. At this time the Kitasoo/Xai'xais Stewardship Authority shall coordinate an internal review of records and community knowledge for any information that may support the identification of the remains.

***Determining Ancestry and Protocols for Treatment of Human Remains***

11. During burial inspections no parts of human remains, including associated funerary objects or artefacts shall be handled, removed, collected or photographed without direct supervision and approval of the Kitasoo/Xai'xais Archaeologist and Cultural Advisors/Representatives.
12. In cases where the ancestry of the remains is uncertain, it may be necessary to conduct analyses to determine, with as much certainty as possible, the ancestry, sex, age and any other pertinent information about the individual(s).
13. In cases where the ancestry of the remains is determined to be Indigenous or Kitasoo/Xai'xais, the remains should be turned over in a timely fashion to the Kitasoo/Xai'xais Nation Council.
14. In cases where the ancestry of the remains is determined to be Kitasoo/Xai'xais and familial relations can be determined, the associated family should be consulted regarding the further care and treatment of the remains.

15. As soon as human remains are determined to be Indigenous the Kitasoo/Xai'xais Nation reserve the right to reburial without scientific study. However, when deemed appropriate, the Kitasoo/Xai'xais may allow human remains to undergo limited non-destructive observational analysis by a qualified physical anthropologist.
16. Prior to any analysis or study, written permission must be obtained from the Kitasoo/Xai'xais Nation.
17. Acceptable analyses may include sampling for radiocarbon dating, dietary analysis and DNA analysis. Analyses should be carried out by a professional physical anthropologist and should be overseen by the Kitasoo/Xai'xais appointed Archaeologist and Cultural Advisors/Representatives to ensure analytic accuracy and adherence to cultural protocols.
18. In cases where the remains are removed from the site a reasonable effort shall be made to retain all organic materials contained in or on the surface of any human bone or associated funerary object for the purposes of reburial.
19. Either at the time of recovery or as soon as possible following recovery, the ancestral remains should be prepared for reburial.
20. Should a period of storage be required the packaged remains may be temporarily housed in an appropriate location/facility, while any further analyses are carried out and while reburial plans are made.

#### ***Reburial of Human Remains and Record Keeping***

16. Reburial should be conducted as soon as possible following the receipt and analysis of any ancestral human remains. Kitasoo/Xai'xais Cultural Advisors/Representatives may facilitate reburial plans including identification of a site and planning for the burial ceremony.
17. In cases where there are known relatives or family connections the family may take the responsibility for planning for and carrying out the reburial.
18. Whenever possible, reburial should occur at the original location of discovery.
19. Records of all found ancestral human remains, results of any analyses conducted, their deposition, and the location of their final place of rest should be maintained by the Kitasoo/Xai'xais Stewardship Authority, and be kept confidential.

#### ***Further Activity at the Site***

20. If an activity or development was stopped as a result of the discovery of human remains activity may not resume until an on-site inspection has been completed (i.e. to find additional burial sites and cultural heritage features) and a plan is in place for the protection of the burial site.
21. If the remains are determined to be of Kitasoo/Xai'xais ancestry, further activity at this site can only continue with the consent of the Kitasoo/Xai'xais Nation. Terms and conditions for carrying out further activity in the area where the ancestral human remains were discovered must be negotiated with the Kitasoo/Xai'xais Nation. The Nation should involve the Archaeologist and Cultural Advisors/Representatives as advisors in these discussions. Negotiated terms and conditions must comply with Kitasoo/Xai'xais Cultural Heritage policies.
22. If the ancestral human remains are located in an area where there is overlapping territorial claims the Kitasoo/Xai'xais and all persons involved shall involve appointed representatives in all decision making processes regarding the handling of the remains and measures for protecting the site.

#### **POLICY AUTHORITY**

Any questions or concerns regarding this policy should be directed to the Kitasoo/Xai'xais Stewardship Authority (250-839-1096, engagement@kxsa.ca).

#### **POLICY ENFORCEMENT & CONSEQUENCES**

The Kitasoo/Xai'xais Stewardship Authority holds the mandate to monitor and enforce compliance with these policies. The Kitasoo/Xai'xais Stewardship Authority will ensure compliance to these policies during engagement carried out during the project planning and development phase, and may require compliance monitoring during and after project development.

Failure to adhere to the policies, protocols and procedures in this document may severely jeopardise the ability to have access to, or to carry out development projects within, Kitasoo/Xai'xais territory.

Desecration of burial sites and/or ancestral human remains could result in reporting of the offence to Provincial authorities for further investigation and prosecution.

Figure 1. Kitasoo/Xai'xais territory

