

Version 1.0 March 21st, 2017

SQ'EWÁ:LXW FIRST NATION

LAND USE AND ZONING LAW 2017



PREAMBLE

WHEREAS Sq'ewá:lxw First Nation has an inherent right to self-government which emanates from its people, culture, language, and land and which is recognized and affirmed by section 35 of the Constitution Act, 1982;

WHEREAS our Nation has chosen to assume control of its indian reserve lands pursuant to the First Nation Lands Management Act, S.C. 1999, c. 24 by entering into the Individual Agreement on First Nation Land Management between Sq'ewá:lxw First Nation and Her Majesty the Queen in Right of Canada and by adopting the Sq'ewá:lxw First Nation Land Code;

WHEREAS under the Skawahlook First Nation Land Code, Council is authorized to pass various Laws relating to lands, including land use planning and zoning, consistent with the Land Code as per Section 16;

WHEREAS driven by the need to address community sustainability through economic development, Sq'ewá:lxw must collectively decide how to best use and protect the resources of our land and water;

THEREFORE BE IT RESOLVED THAT the Sq'ewá:lxw First Nation hereby enacts the following Law:

PART 1 - INTERPRETATION

Short Title

1 This Law may be cited as the "Sq'ewá:lxw Land Use and Zoning Law 2017".

Purpose

2 The purpose of this Law is to promote environmentally responsible, healthy, safe, convenient, and well planned use of Sq'ewá:lxw lands.

Definitions

3 For the purposes of this Law, terms have the same definitions as in the Land Code;

4 In addition, the following definitions apply:

- (a) "**Controlled substances**" means controlled substances as defined in the Controlled Drugs and Substances Act, SC 1996 c.19 as amended from time to time.
- (b) "**Council**" means the Chief and Council of Sq'ewá:lxw.
- (c) "**Development**" means the carrying out of the construction, erection, structural alteration, placement or relocation of any building, excavation, other operation on, over, or under land, or the making of any change in the use or intensity of use of any land or buildings or premises.



- (d) “**Dwelling Unit**” means a structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.
- (e) “**Land Code**” means the Skawahlook First Nation Land Code dated for reference October 18, 2013 and any amendments thereto.
- (f) “**Laws**” means any applicable Sq’ewá:lxw, federal or provincial laws, as those laws may be amended from time to time.
- (g) “**Person**” includes an entity or corporation.
- (h) “**Sq’ewá:lxw**” means the Skawahlook First Nation, a band within the meaning given to “band” in subsection 2(1) of the Indian Act.
- (i) “**Sq’ewá:lxw Enforcement Officer**” means any person or class of persons designated as an enforcement officer under section 15 of the Sq’ewá:lxw Enforcement and Ticketing Law.
- (j) “**Sq’ewá:lxw lands**” means Skawahlook Indian Reserve No. 1 and Ruby Creek Indian Reserve No. 2 and such lands as are defined in the Land Code.

PART 2 - APPLICATION

Where This Law Applies

- 5** The provisions of this Law apply to all of the Sq’ewá:lxw lands including all lands held by Certificate of Possession, community land and all other interest in Sq’ewá:lxw lands.

Paramountcy

- 6** If there is a conflict between this Land Use and Zoning Law and the Land Code, the Land Code will apply.

Authority

- 7** Except as otherwise provided in this Land Use and Zoning Law, the Land Code, or the First Nations Land Management Act, Sq’ewá:lxw acts through Council in exercising its powers and functions under this Land Use and Zoning Law.
- 8** Council must exercise its powers and functions in accordance with this Land Use and Zoning Law, the Land Code and all other applicable Laws.

PART 3 - LAND USE PLAN

- 9** Council will direct the Lands Manager to prepare a draft land use plan for Sq’ewá:lxw lands describing the manner in which the development or redevelopment of reserve lands may best be organized and carried out, having regard to considerations of orderliness, economy, and convenience.
- 10** The draft land use plan will



- (1) be prepared under the direction of qualified planning officers or qualified planning consultants, to be appointed by and responsible to the Lands Manager;
 - (2) be prepared on the basis of community input and engagement so as to reflect the vision of the Sq'ewá:lxw people;
 - (3) be prepared on the basis of surveys and studies of land use, population growth, economic activity, needs relating to transportation, communication, public services and social services and any other factors that are relevant to the preparation of the plan;
 - (4) include a map atlas showing the land that is to be included in the land use plan and the location and extent of defined zones of permitted land use that the Council considers necessary for the purposes of the plan;
 - (5) include management objectives, uses, and polices associated with each land use zone; and
 - (6) include any other written statements, reports, charts and drawings that may be necessary to express and illustrate the proposals contained in the plan.
- 11** The Land Advisory Committee, as per the Land Code, will convene a meeting of members to seek their approval of the draft land use plan.
- 12** If members approve the draft land use plan then Council may, at its discretion, adopt the land use plan as recommended by the Land Advisory Committee and approved by members.
- 13** Council may, from time to time and at its discretion, direct the Lands Manager to update or make changes to the land use plan which would be prepared in the same manner, and subject to the same Council adoption and community approval processes as described in Sections 11 and 12.
- 14** The Lands Manager will create and maintain a system of change management for the recording of information or issues which are to contribute to the next update of the land use plan.
- 15** An application for a development permit, as enabled by the Sq'ewá:lxw Subdivision, Development, and Servicing Law may include a proposal for a change in Zoning or zone guidance as defined by this Law. That application process is administered through the Sq'ewá:lxw Subdivision, Development, and Servicing Law.

PART 4 - GENERAL REGULATIONS

Prohibited Activities without Authorization

- 16** Except as otherwise provided in this Law all use of Sq'ewá:lxw lands must conform with the land use plan.
- 17** Within Sq'ewá:lxw lands, none of the following are permitted except in strict conformity with the requirements of this Law and any other applicable Laws including the Sq'ewá:lxw Subdivision, Development, and Servicing Law:



- (1) any activity, use, or development on a parcel of land which is not in strict conformity with the activities, uses, and developments permitted for that parcel of land in that zone;
- (2) any activity, use or development of a parcel of land which is not in compliance with all applicable Laws, authorizations, and standards, including those relating to health, safety and environmental requirements; and
- (3) rezoning;

Uses Generally Prohibited in All Zones

18 The following uses of land, buildings, and structures shall be prohibited within Sq'ewá:lxw lands and all zones unless specifically permitted:

- (1) the storage of fuel or other flammable liquids for commercial or industrial purposes in quantities greater than 50 litres in or adjacent to a Dwelling Unit or accessory buildings;
- (2) use of any land as a garbage dump, waste facility, or hazardous waste facility;
- (3) the growing, propagation, or harvesting of cannabis or any Controlled Substances in any building or structure except in strict compliance of a valid and subsisting license from the federal government or the medical health officer;
- (4) production or manufacture of a Controlled Substance in any building or structure, excluding a licensed compounding pharmacy;
- (5) structures or construction within a watercourse or parcel setback areas;
- (6) on-street parking or visible storage of:
 - (a) unlicensed, uninsured, or inoperable heavy equipment;
 - (b) more than one unlicensed, uninsured, or inoperable motor vehicles, boats, or trailers per household.
- (7) Notwithstanding any other provisions of this Law, a use which results in any of the following impacts on neighbours or other owners or occupiers outside of the originating parcel of land:
 - (a) unreasonable or objectionable levels of sound, noise, heat, or glare;
 - (b) unsafe, unhealthful, or objectionable levels of odour, vapour, dust, fumes, ash, or any other potentially toxic or noxious substance or material;
 - (c) ground vibration;
 - (d) radiation or electromagnetic interference; or
 - (e) any environmental, health, or safety hazard to persons or property in areas surrounding the use.



PART 5 - LAND USE ZONING

- 19** Sq'ewá:lxw through the land use plan has developed land use zoning including land use guidance for each zone. These zones are depicted in the land use plan map atlas.
- 20** All Sq'ewá:lxw lands will be divided into the following zone designations:
- (1) Environmental Protection Zone;
 - (2) Cultural and Traditional Zone;
 - (3) Community Recreation Zone;
 - (4) Residential Mixed Use Zone;
 - (5) Community Centre Zone;
 - (6) Commercial Zone; or
 - (7) other zones Sq'ewá:lxw may consider necessary or advisable.
- 21** Environmental Protection Zone
- (1) The purpose of this zone is to ensure achievement of the following objectives:
 - (a) the protection and improvement of natural habitats and cultural values;
 - (b) the protection of riparian areas, fish and wildlife habitat, and species or ecosystems at risk;
 - (c) protection of natural and pleasing views and viewsapes;
 - (d) buffering of Sq'ewá:lxw land from neighbouring land use beyond our control; and
 - (e) protection of creek and river banks for environmental protection, erosion control, and the protection of the health, safety, and property of our residents and visitors.
 - (2) Permitted uses are:
 - (a) viewing, walking, swimming, and non-motorized recreation;
 - (b) location of a community trail within the zone; and
 - (c) traditional harvest of plants, fish, and animals.
 - (3) Prohibited uses include:
 - (a) interment of deceased persons;
 - (b) the harvest of trees;



- (c) dumping of waste or importation of soil or other materials;
- (d) soil disturbance, other than that for research or stewardship purposes and permitted in compliance with the Sq'ewá:lxw Subdivision, Development, and Servicing Law;
- (e) bulk fuel storage;
- (f) construction of permanent or temporary buildings or structures; and
- (g) any Development or road access unless permitted in compliance with the Sq'ewá:lxw Subdivision, Development, and Servicing Law.

22 Cultural and Traditional Zone

- (1) The purpose of this zone is to ensure achievement of the following objectives:
 - (a) protection of heritage, sacred, spiritual, and cultural sites and artifacts including graveyards and pit house depressions;
 - (b) provision of opportunity for traditional, cultural, and ceremonial activities;
 - (c) protection and improvement of natural habitats;
 - (d) protection of natural and pleasing views and viewscapes; and
 - (e) protection of creek and river banks for environmental protection, erosion control, and the protection of the health, safety, and property of our residents and visitors.
- (2) Permitted uses are:
 - (a) ceremony;
 - (b) improvements to protect and maintain cultural sites;
 - (c) improvements, including structures, within the spirit and scale of tradition for ceremony, cultural, or educational purposes;
 - (d) the interment of deceased persons according to applicable Laws;
 - (e) viewing, walking, swimming, and non-motorized recreation;
 - (f) traditional harvest of plants, fish, and animals; and
 - (g) infrastructure to protect values or support use or understanding.
- (3) Prohibited uses include:
 - (a) dumping of waste or importation of soil or other materials;



- (b) soil disturbance, other than that for research or stewardship purposes and permitted in compliance with the Sq'ewá:lxw Subdivision, Development, and Servicing Law;
- (c) bulk fuel storage;
- (d) the harvest of trees;
- (e) construction of permanent or temporary buildings or structures; and
- (f) any Development or road access unless permitted in compliance with the Sq'ewá:lxw Subdivision, Development, and Servicing Law.

23 Community Recreation Zone

- (1) The purpose of this zone is to ensure achievement of the following objectives:
 - (a) Provide a place for all members to come together in community; and
 - (b) Provide recreational accommodation opportunities for non-resident members and their families to reconnect with Sq'ewá:lxw land and relations.
- (2) Permitted uses are:
 - (a) clearing of trees and brush and the development of attractive landscaping;
 - (b) location of a community trail within the zone;
 - (c) improvements for the safety, comfort, accommodation, and recreation of members;
 - (d) ceremony;
 - (e) camping and campfires;
 - (f) spiritual gathering places and sweat lodges;
 - (g) playing fields and courts; and
 - (h) Outdoor recreation including fishing.
- (3) Prohibited uses include:
 - (a) any Development unless permitted in compliance with the Sq'ewá:lxw Subdivision, Development, and Servicing Law;
 - (b) bulk fuel storage; and
 - (c) Use of the land for the interment of deceased persons.

24 Residential Mixed Use Zone

- (1) The purpose of this zone is to ensure achievement of the following objectives:



- (a) provision of housing within a dynamic community of all ages and circumstances living, working, and playing together and caring for each other;
 - (b) minimize infrastructure costs for new housing and economic development; and
 - (c) create a community that is safe, attractive, and accessible to all.
- (2) Permitted uses are:
- (a) spiritual gathering places and sweat lodges;
 - (b) facilities for the traditional preparation of foods;
 - (c) improvements for the safety, comfort, and enjoyment of residents;
 - (d) developments for community recreation including playgrounds, sports courts, and other recreational improvements;
 - (e) single and extended family housing;
 - (f) high density housing for singles and young couples;
 - (g) one, two, or three story buildings which are for residential or residential/commercial/office mixed use;
 - (h) single, duplex, and multi-unit housing;
 - (i) low rise, low density residential construction including out-buildings;
 - (j) conventional, prefabricated, and mobile home construction techniques;
 - (k) micro-homes accommodating singles or small families;
 - (l) utilities and other service infrastructure such as drinking water and sewage systems;
 - (m) elders and special needs housing;
 - (n) location of a community trail within the zone;
 - (o) community scale retail and commercial and home businesses;
 - (p) clearing of trees and brush and landscaping in compliance with the Sq'ewá:lxw Subdivision, Development, and Servicing Law;
 - (q) private and community gardening and composting of materials produced on site;
 - (r) garden farming and limited livestock; and
 - (s) small-scale green energy generation.



(3) Prohibited uses include:

- (a) any Development unless permitted in compliance with the Sq'ewá:lxw Subdivision, Development, and Servicing Law;
- (b) bulk fuel storage;
- (c) storage of boats, recreational vehicles, trailers, and unlicensed motor vehicles in the front yard or on the street in front of any home or business;
- (d) mechanical maintenance on any vehicle in front of any home or business or on the street;
- (e) parking of more than one unlicensed motor vehicle in the open per household; and
- (f) use of the land for the interment of deceased persons.

25 Community Centre Zone

(1) The purpose of this zone is to ensure achievement of the following objectives:

- (a) provision of a governance and administrative centre for the community which instills pride in our Nation;
- (b) facilitation of the provision of services to members through the efficient use of infrastructure and staff;
- (c) provision of commercial services to capture outside investments; and
- (d) provision of opportunities for economic development including commercial and retail uses.

(2) Permitted uses are:

- (a) governance and administration and other institutional services such as daycare and community gathering space;
- (b) location of a community trail within the zone;
- (c) utilities and other service infrastructure such as drinking water and sewage systems;
- (d) recreational infrastructure; and
- (e) retail, food service, and commercial businesses.

(3) Prohibited uses:

- (a) any Development unless permitted in compliance with the Sq'ewá:lxw Subdivision, Development, and Servicing Law;
- (b) bulk fuel storage; and



- (c) use of the land for the interment of deceased persons.

26 Commercial Zone

(1) The purpose of this zone is to ensure achievement of the following objectives:

- (a) provision of opportunities for economic development including commercial, retail, and light industrial uses;
- (b) provision of commercial services to support a local population; and
- (c) provision of commercial services to capture outside investments.

(2) Permitted uses are:

- (a) service and other commercial businesses;
- (b) retail and gas bar;
- (c) residential accommodation in association with business;
- (d) location of a community trail within the zone;
- (e) generation of clean energy;
- (f) light assembly or manufacturing; and
- (g) work camp accommodation.

(3) Prohibited uses include:

- (a) any Development unless permitted in compliance with the Sq'ewá:lxw Subdivision, Development, and Servicing Law;
- (b) landfills or garbage incineration plants; racetracks; and pet cemeteries; and
- (c) Use of the land for the interment of deceased persons.

PART 6 - OFFENCES, PENALTIES, AND ENFORCEMENT

27 A person who contravenes this Law or an order made by a Court pursuant to this Law is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 or to imprisonment for a term of not more than three months, or to both.

28 A Sq'ewá:lxw Enforcement Officer may enter, at all reasonable times, any day of the week, on any property that is subject to regulations under this Law to ascertain whether the provisions of this Law are being adhered to.

29 In addition to any other applicable fine, penalty or remedy, Council, the Lands Manager, a Sq'ewá:lxw Enforcement Officer, or a designated official may:



- (1) Issue a stop work order to order any Person who has not received full and proper authorization under this Law to cease carrying out any activity, use or construction listed under Sections 16, 17, or 18, or any related activity or use;
 - (2) Order any structures, works or installations carried out in violation of this Law to be removed within 30 days, failing which Council may order them to be removed at the expense of the Certificate of Possession holder or the Person who constructed or installed the structures, works or installations without proper authorization.
- 30** Enforcement of this Land Use and Zoning Law will be as per the Sq'ewá:lxw Enforcement and Ticketing Law.

PART 7 - AMENDMENTS

Amendments to this Law

- 31** An amendment or repeal of this Land Use and Zoning Law must only be made by Council, as recommended by the Land Advisory Committee in accordance with the Land Code.





