

Version 1.1 March 31<sup>st</sup>, 2021

# **SQ'EWÁ:LXW FIRST NATION**

## **SUBDIVISION, DEVELOPMENT, AND SERVICING LAW 2021**



## 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 Skawahlook First Nation Land Code;

WHEREAS under the Skawahlook Land Code, Council is authorized to pass various Laws relating to lands consistent with the Land Code as per Section 16;

THEREFORE BE IT RESOLVED THAT 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 Subdivision, Development, and Servicing Law 2021".

### Purpose

- 2 The purpose of this Law is to enable land development which meets community goals, protects Sq'ewá:lxw values, and supports socio-economic objectives.

### 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) "**Development Permit**" means a permit issued by Sq'ewá:lxw authorizing activities on Sq'ewá:lxw lands as per this Law.
  - (b) "**Development Permitting Guide**" means the document to be found as appendix to the Sq'ewá:lxw Environmental Management Plan and forming part of that plan.
  - (c) "**Harvest of Trees**" means the cutting of whole trees or the removal of parts of trees such as bark, roots, or foliage.
  - (d) "**Land Code**" means the Skawahlook First Nation Land Code dated for reference October 18, 2013 and any amendments thereto.
  - (e) "**Laws**" means any applicable Sq'ewá:lxw, federal or provincial laws, as those laws may be amended from time to time.
  - (f) "**Person**" includes an entity or corporation.



- (g) “**Project**” means the process and activities required to bring works defined in a permit application from the approval-in-principle stage to completion.
- (h) “**Reserve**” means the whole of Skawahlook IR No. 1 and Ruby Creek IR No. 2 and any future reserve additions.
- (i) “**Sq’ewá:lxw**” means the Skawahlook First Nation, a band within the meaning given to “band” in subsection 2(1) of the *Indian Act*.
- (j) “**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.
- (k) “**Sq’ewá:lxw lands**” means Skawahlook Indian Reserve No. 1 and Ruby Creek Indian Reserve No. 2 and such lands as are included under the terms of 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 Sq’ewá:lxw lands held by Certificate of Possession, community land and all other interest in Sq’ewá:lxw lands.

### **Paramouncy**

- 6** If there is a conflict between this Subdivision, Development, and Servicing Law and the Land Code, the Land Code will apply.

### **Authority**

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

## **PART 3 - SUBDIVISION, DEVELOPMENT AND SERVICING**

### **Prohibited Activities without Authorization**

- 9** None of the following are permitted within Sq’ewá:lxw lands except in strict conformity with the requirements of this Law, any other applicable Laws, the Sq’ewá:lxw Land Use Plan, the the Sq’ewá:lxw Environmental Management Plan, and the Development Permitting Guide:

- (1) subdivision of land or partitioning of land;



- (2) stratification or other division of legal interests in Sq'ewá:lxw lands or structures into strata units, sub-leases or shares;
  - (3) development of land;
  - (4) installation of roads, intersections, sewer, water, and other infrastructure;
  - (5) construction, alteration, enlargement, addition, demolition or removal of industrial, commercial or residential structures, including the installation, demolition, or removal of swimming pools and decks;
  - (6) disturbance of soil; and
  - (7) deposit or removal of more than 6 m<sup>3</sup> of soil, gravel, or other materials.
- 10** Without limiting the generality of Section 9, it is prohibited to carrying out any of the activities set out in Section 9 without a Development Permit.
- 11** Despite Sections 9 and 10, the following do not require any approvals under this Law, but must not be undertaken except in compliance with all applicable Laws, the Sq'ewá:lxw Land Use Plan, and the the Sq'ewá:lxw Environmental Management Plan:
- (1) construction of any non-residential structure the footprint of which is less than 200 square feet;
  - (2) if carried out in conformity with the FireSmart requirements set out in the Development Permitting Guide, construction of an accessory building within 10 meters of the primary building;
  - (3) construction or finishing of trails, driveways, or internal roads for single family residential sites on which the internal road or driveway is completely within a single parcel of land;
  - (4) landscaping, and minor yard work which does not require excavation deeper than 1.5 m or the removal or deposit of more than 6 m<sup>3</sup> of soil, gravel, or other material; and
  - (5) installation of trailers and temporary structures provided such trailers and temporary structures have no hook-ups or connections to services.

### **Harvesting of Trees**

- 12** It is prohibited to harvest trees on Sq'ewá:lxw Lands except in strict conformity with the requirements of this Law and any other applicable Laws.
- 13** Without limiting the generality of Section 12, it is prohibited to carrying out the harvesting of trees on Sq'ewá:lxw Lands without a Tree Harvest Permit or a Development Permit.



## **PART 4 - APPLICATIONS AND APPROVALS**

- 14** For the purposes of administration of this Law, projects will be classified as minor projects or major projects.
- 15** Minor projects are defined as:
- (1) temporary land use by utilities or other contractors which involves any removal of trees, shrubs, or disturbance of soil;
  - (2) construction of residential garages or out buildings the footprint of which is greater than 200 square feet;
  - (3) installation of trailers and temporary structures which are connected to services; or
  - (4) the construction or demolition of a single family home by Sq'ewá:lxw on Sq'ewá:lxw lands, or by a Sq'ewá:lxw member on land held under that member's Certificate of Possession.
- 16** No minor projects may take place or have activity within 30 metres of a water body.
- 17** No project requiring community input or approval will be considered a minor project.
- 18** Minor project applications will be in the form of a minor project permit application as per the Development Permitting Guide.
- 19** All projects that are not minor projects are major projects and applications for major projects will be in the form of a land use and development permit application as per the Development Permitting Guide.
- 20** Permit fees are prescribed in Schedule A of this Law.
- 21** Every applicant applying for an approval to carry out a project, development, activity or procedure set out in Section 9 or 10 shall pay the prescribed fees and submit an application to the Lands Manager in the prescribed form that meets the applicable requirements set out in the following:
- (1) Sq'ewá:lxw Development Permitting Guide;
  - (2) Sq'ewá:lxw Land Use and Development Permit Application;
  - (3) Sq'ewá:lxw Land Use and Development Checklist; and
  - (4) any directions from certified professionals.
- 22** Applications shall be reviewed and processed in stages, generally in the following order:
- (1) application, conceptual design and issuance of Approval in Principle;
  - (2) final design approval and issuance of Development Permit;
  - (3) inspection for substantial completion; and



(4) inspection at completion.

**23** Applicants shall pay the prescribed fee, post any required bonds, and submit the prescribed application form for each relevant stage set out in Section 22.

### **Land Use and Zoning**

**24** If a project requires a change in zoning or zone guidance as defined by the Sq'ewá:lxw Land Use and Zoning Law, the applicant will provide the prescribed information as per the Sq'ewá:lxw Development Permitting Guide.

### **Review by Committee and other Departments**

**25** As soon as practicable after receiving the prescribed fees and a complete application under this Part, the Land Manager shall:

- (1) refer the application to a meeting of the Lands Advisory Committee along with all relevant information and documentation;
- (2) circulate the application and all relevant information and documentation to internal Sq'ewá:lxw departments for comment; and
- (3) for application for sub-divisions, multi-family structures, or significant increases in density, refer the application for comment to all adjacent Certificate of Possession holders on Sq'ewá:lxw Lands.

**26** The Committee shall review the application and shall provide recommendations to Council about:

- (1) whether the application should be approved or not; and
- (2) any suggested modification, terms or conditions that should be set by Council.

### **Principles and Factors in Reviewing Applications**

**27** For each application, the Committee shall consider the following general principles and factors:

- (1) clear and legal access to the land for the intended purpose;
- (2) the promotion of health, safety, convenience and welfare of Sq'ewá:lxw members and of residents and occupants and other persons who have a lawful interest in Sq'ewá:lxw Lands;
- (3) well planned and orderly development of Sq'ewá:lxw Lands and the preservation of amenities and special features of Sq'ewá:lxw Lands;
- (4) the proposed development or land and resource use will not pose a threat of irreparable environmental, cultural or resource damage, and will contain an element that can contribute to the restoration of the natural and/or cultural health of the land;



- (5) adherence to all Sq'ewá:lxw land use, environmental management, and heritage protection processes;
- (6) compliance with Laws particularly this Subdivision, Development, and Servicing Law, the Sq'ewá:lxw Environmental Management Law and the Sq'ewá:lxw Land Use and Zoning Law and with relevant federal and provincial Laws;
- (7) compliance with the Sq'ewá:lxw land use plan;
- (8) evaluation on the following merits:
  - (a) is it good land use?
  - (b) does it balance impacts and benefits?
  - (c) does it support sustainability?
  - (d) are the economic benefits maximized?
- (9) the character of the proposed activity or project in relation to the character of the zone, neighbourhood, and the buildings already erected;
- (10) the development of the zone, neighbourhood, and Reserve in a manner that contribute to the economic, environmental, cultural and community health of Sq'ewá:lxw and its Members and the occupants of Sq'ewá:lxw Land.
- (11) consideration of:
  - (a) viewscales, aesthetics and visual qualities;
  - (b) ensuring adequate parking, access and emergency access; and
  - (c) the conservation of property values.
- (12) that the proposed project will provide more positive than negative social impacts for Sq'ewá:lxw people. Developers will include economic participation by the Nation through business opportunities, such as partnerships and joint ventures, and provide employment-related training and capacity building for Sq'ewá:lxw and Sq'ewá:lxw people;
- (13) adherence to Sq'ewá:lxw housing policy;
- (14) potential impacts on adjacent uses, owners and occupants;
- (15) provision of land and/or funds to Sq'ewá:lxw for the development of community amenities;
- (16) developments considered positively by Sq'ewá:lxw will identify and reserve parks, green space, common areas, open spaces, trails, landscaping, fences, recreation features, and any other public amenities.
- (17) compliance with the Sq'ewá:lxw Environmental Management Plan;



- (18) promotion of the principle of sustainable development for Sq'ewá:lxw lands, ensuring that development takes place in a manner that preserves and protects ecologically significant areas;
- (19) promotion of the principle of sustainable development for Sq'ewá:lxw lands, ensuring that development takes place in a manner that preserves and protects culturally significant areas;
- (20) compatibility with Sq'ewá:lxw and Stó:lō culture;
- (21) any information provided and any approvals already granted by Council, including any terms or conditions, in relation to the same project or the same parcels of Sq'ewá:lxw lands; and
- (22) any other factors which may have an impact on the community or Sq'ewá:lxw Lands.

### **Examples of Recommendations**

**28** In making recommendations to Council, the Committee may make any relevant recommendations including:

- (1) any recommendations relating to the general factors set out in Section 27;
- (2) whether there should be bonds posted or irrevocable letters of credit and, if so, in what percentage or what amount;
- (3) dedication of up to 5% of the area of the land for parks, green space or community use;
- (4) preferred lot reconfigurations to ensure viable subdivisions;
- (5) construction of intersections, access and emergency access routes;
- (6) construction of parking spaces;
- (7) construction of sidewalks;
- (8) purchase and installation of street lights;
- (9) completion of required service agreements;
- (10) provision of updated plans, reports or studies, including as-built drawings after the completion of the project;
- (11) requirements for staging or sequencing of the project including requirements for interim reports;
- (12) set-backs or buffers including set-backs or buffers from property lines and heritage or environmental features;
- (13) noise and dust prevention or mitigation measures; and
- (14) any other relevant terms or conditions.





## **Lands Manager May Request Further Information**

- 29** At any point in the review process, the Lands Manager may request further information, plans, reports, or other relevant material from the applicant which the applicant shall provide.

## **Forward to Council**

- 30** The Lands Manager shall as soon as practicable after having received the comments under Section 25 or having received the additional information requested under Section 29, forward the application to Council along with:
- (1) all relevant documents, maps, plans, reports and other information;
  - (2) recommendations from the Committee;
  - (3) any comments received from adjacent Certificate of Possession holders or members; and
  - (4) any comments or recommendations from the Lands Manager and other Sq'ewá:lxw managers or departments.

## **Council Decisions**

- 31** As soon as practicable after receiving the application and information set out in Section 30, Council shall decide whether or not to approve the application and, without limiting the generality of Council's authority, Council may:
- (1) reject the application; or
  - (2) approve the application with any reasonable terms or conditions, including, but not limited to terms or conditions relating to the items set out in Sections 27 and 28.
- 32** The Lands Manager will communicate any additional terms or conditions set by Council to the applicant. If the applicant rejects the additional terms or conditions outright, the application is rejected. The applicant may respond with alternate terms or an amended application.

## **Community Approval**

- 33** If the project as described requires community input or approval as per the Land Code, the Lands Committee will convene a meeting of members to seek their input or approval as may be required.
- 34** Community meetings will be convened in accordance with Division 2 of the Land Code and related procedures.
- 35** Community input received will be considered by Council and addressed in final conditions as Council sees fit.
- 36** In the case of required approval, if the community rejects the project, the Land Manager will inform the applicant that the application is rejected.



## **Project Implementation**

- 37** If an application is accepted by Council, and approved by the community if required, the Lands Manager will communicate acceptance of the application to the applicant. With the applicant the Lands Manager will initiate a project-based process to administer the project as per the approved application and the development guide.

## **PART 5 - OFFENCES, PENALTIES AND ENFORCEMENT**

### **Penalties**

- 38** 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.

### **Enforcement and Stop Work Orders**

- 39** 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 Section 9 or 10 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.
- 40** Enforcement of this Subdivision, Development, and Servicing Law will be as per the Sq'ewá:lxw Enforcement and Ticketing Law.

## **PART 6 - AMENDMENTS**

### **Amendments to this Law**

- 41** An amendment or repeal of this Subdivision, Development, and Servicing Law must only be made by Council, as recommended by the Lands Advisory Committee in accordance with the Land Code.



**PART 7 - SCHEDULE A**

**Sq'ewá:lxw Lands Fee Schedule for Applications**

Note: These fees are for application and processing only. There is no commitment implied or given on behalf of Sq'ewá:lxw to accept or approve any of the proposed projects, uses, or activities.

Additional fees for research or study may apply.

<b>Application Type</b>	<b>Basic Fee</b>	<b>Incremental Fee</b>
Timber Harvest Permit	\$25	
Minor Project Permit <ul style="list-style-type: none"> <li>• Temporary land use</li> <li>• Single residence construction</li> </ul>	\$250 \$500	\$50 \$250
Zoning Amendment or Rezoning <ul style="list-style-type: none"> <li>• One or two adjacent parcels</li> <li>• Three or more adjacent parcels</li>   <li>• Land use text amendment (for small amendments to description of allowable uses in the zone, without changing the zoning)</li> </ul>	\$1,200 \$1,200  \$1,200	Plus \$10 per unit or \$280 per ha of site area, whichever is greater, up to \$2,000
Subdivision or Multiple Lot or Unit Application <ul style="list-style-type: none"> <li>• Basic subdivision or multiple lot application fee</li> </ul>	\$1,200	Plus \$55 per lot created by subdivision
Strata or Multiple Unit (apartments or townhouses) Application <ul style="list-style-type: none"> <li>• Basic strata or multiple unit application fee</li> </ul>	\$800	Plus \$50 per unit
Development Permit Application <ul style="list-style-type: none"> <li>• Single family, semi-detached and duplex               <ul style="list-style-type: none"> <li>○ Construction up to \$5,000 value or simple ancillary building, deck, swimming pool, etc.</li> <li>○ Construction over \$5,000</li> </ul> </li> <li>• Multi-family, townhouse, commercial, industrial, institutional               <ul style="list-style-type: none"> <li>○ Value of engineering works up to \$500,000</li> <li>○ Value of engineering works in excess of \$500,000</li> </ul> </li> </ul>	\$60  \$120  \$100 \$100	Plus 0.6% of total value of construction   Plus value times 1.5% Plus value times 0.5% up to a maximum of \$15,000



