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**SHXWHÁ:Y VILLAGE**

SUBDIVISION, DEVELOPMENT AND SERVICING LAW

MARCH, 2015

Approved by Council: June 30, 2015

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## PREAMBLE

WHEREAS Shxwhá:y Village has an inherent right to self-government which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;

AND the Shxwhá:y Village has taken over control and management of Shxwhá:y Village Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Shxwhá:y Village Land Code* effective January 8, 2007;

AND under the *Shxwhá:y Village Land Code*, Shxwhá:y Village Council is authorized to pass various laws relating to lands including laws relating to regulation of zoning, subdivision and developments under section 6 of the Code;

NOW THEREFORE this *Shxwhá:y Village Subdivision, Development and Servicing Law* is hereby enacted as a Law of the Shxwhá:y Village.

## PART 1.

### 1. NAME

1.1 This Law may be cited as the *Shxwhá:y Village Subdivision, Development and Servicing Law*.

### 2. PURPOSE

2.1. The purpose of this Law is to promote environmentally sustainable, healthy, safe, convenient and well planned use of Shxwhá:y Village Land.

### 3. WHERE THIS LAW APPLIES

3.1. The provisions of this Law apply to the whole area of the Reserve and Shxwhá:y Village Land as defined in the *Shxwhá:y Village Land Code*.

### 4. DEFINITIONS

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

4.2. For the purposes of this Law, the following definitions apply:

"Enforcement Officer" means any person or persons appointed by Council, from time to time, to administer and enforce the provisions of Shxwhá:y Laws enacted by Council, and includes any delegate, the RCMP and any peace officer;

"Lands Manager" means the CEO or another person appointed by Council to manage Shxwhá:y Village Land;

"Person" means any natural person, corporation, and, except where stated otherwise, any person who is a Member of Shxwhá:y Village, and

"Reserve" means the whole of the Skway Reserve No. 5, including, without limiting the generality of the foregoing, any conditionally surrendered lands, designated lands, and lands subject to any form of leasehold interest, allotment, certificate of possession or permit.

## 5. GENERAL PROVISIONS

5.1. The headings of parts and sections in this Law have been inserted as a matter of convenience and for reference only and in no way define or limit any of its provisions.

5.2. In the event that all or any part of any section or sections of this Law are found by a court of competent jurisdiction to be invalid, such sections shall be severable, and the remaining portions or sections shall remain in full force and effect.

## 6. SUBDIVISION, DEVELOPMENT AND SERVICING

### *Prohibited Activities without Authorization*

6.1. None of the following are permitted within Shxwhá:y Village Land except in strict conformity with the requirements of this Law and any other applicable Laws:

- a) subdivision,
- b) stratification or other division of legal interests in lands or structures into strata units, sub-leases or shares,
- c) development of any kind,
- d) installation of roads, intersections, sewer, water or other infrastructure,
- e) construction, alteration, enlargement, addition, demolition or removal of industrial, commercial or residential structures, including signs, and including the installation, demolition or removal of swimming pools and decks, and
- f) deposit or removal of more than 10 m<sup>3</sup> per year of soil, gravel or other materials

from sources outside of Shxwhá:y Village Land.

6.2. Without limiting the generality of subsection 6.1, the following are prohibited :

- a) subdivision or partitioning of one or more parcels of Shxwhá:y Village Land without a survey and subdivision approval by Council;
- b) stratification or other division of legal interests in lands or structures into strata units, sub-leases or shares without approval by Council;
- c) construction of a street, driveway, laneway or intersection without a permit, and
- d) installation or occupation of trailers or temporary structures; and
- e) carrying out any of the activities set out in subsections 6.1 c), d), 0 or 6.2 c) without a Development Permit.

*Exemptions*

6.3. Despite subsections 6.1 and 6.2, the following do not require any approvals under this Law in and of themselves, provided they conform to the BC Building Code (2012) and its successor Codes, although all such structures and activities are required to comply with all other Laws:

- a) construction of any non-residential structure the footprint of which is less than 200 square feet,
- b) 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, and
- c) landscaping, and minor yard work which does not require an excavation deeper than 1.5 m or the removal or deposit of more than 10 m<sup>3</sup> of soil, gravel or other material.

## 7. APPLICATIONS AND APPROVALS

7.1. Every applicant, including developers and contractors, applying for an approval to carry out a project, development, activity or procedure set out in section 6.1 or 6.2 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:

- a) General Engineering Requirements for Land Development on Shxwhá:y Village Lands;
- b) General Requirements for Environmental Assessments on Shxwhá:y Village

Lands;

- c) Sto:lo Heritage Policy Manual;
- d) Subdivision and Development Application and Checklist;
- e) The BC Building Code; and
- f) Directions from certified professionals.

7.2. Applications shall be reviewed and processed in stages, generally in the following order:

- a) Rezoning (if required under Shxwhá:y Village Law);
- b) Subdivision;
- c) Conceptual Plan;
- d) Approval in Principle;
- e) Development Permit;
- f) Substantial Completion; and
- g) Completion.

7.3. Applicants shall pay the prescribed fee, post any required bonds, and submit the prescribed application form for each relevant stage set out in this Part.

*Concurrent Re-zoning Applications*

7.4. An applicant may apply for approvals under this Law concurrently with a re-zoning application under the Shxwhá:y Village Law. In the case of concurrent applications:

- a) All fees payable under both Laws are due at the time of application; and
- b) The applicant is required to provide completed applications under both Laws.

*Single Family Exemptions*

7.5. Despite subsection 7.1 c), a Sto:lo Heritage Investigation Permit is not required for construction of single family homes for Shxwhá:y Village Members.

*Review by Advisory Committee and other Departments*

7.6. As soon as practicable after receiving the prescribed fees and a complete application under this Part, the Lands Manager shall:

- a) refer the application to a meeting of the Land Management Advisory Committee along with all relevant information and documentation;
- b) circulate the application and all relevant information and documentation within the Shxwhá:y Village administration for comment;
- c) for applications for sub-divisions, multi-family structures, or significant changes in use or increases in density, refer the application where appropriate to all adjacent interest-holders on Shxwhá:y Village Lands; and
- d) if appropriate, refer aspects of the application to the City of Chilliwack.

7.7. The CEO and, if necessary, the Land Management Advisory Committee shall review the application and shall provide recommendations to Council about:

- a) Whether the application should be approved or not; and
- b) Any suggested modifications, terms or conditions that should be set by Council.

*Principles and Factors in Reviewing Applications*

7.8. For each application, the CEO and the Advisory Committee shall consider the following general principles and factors:

- a) The promotion of health, safety, convenience and welfare of Shxwhá:y Village members and of residents and occupants and other persons who have a lawful interest in Shxwhá:y Village Lands;
- b) Well planned and orderly development of Shxwhá:y Village Lands and the preservation of amenities and special features of Shxwhá:y Village Lands;
- c) Compliance with any approved Shxwhá:y Village Land Use Plan and Shxwhá:y Village Laws and with relevant federal, provincial and municipal laws and standards;
- d) Environmental protection and enhancement;
- e) Flood Plain measures;
- f) Adherence to Shxwhá:y Village housing policies;
- g) Provision of community benefits including land and/or funds to Shxwhá:y Village for the development of community amenities;
- h) Protection and enhancement of cultural and heritage sites;
- i) Compatibility with Shxwhá:y Village and Sto:lo culture;

- j) Viewscapes, aesthetics and visual qualities;
- k) Ensuring adequate parking, access and emergency access;
- l) The character of the proposed activity or project in relation to the character of the zone, neighbourhood, and the buildings already erected;
- m) The conservation of property values;
- n) Potential impacts on adjacent uses, owners and occupants;
- o) The development of the zone, neighbourhood and Reserve in a manner that contributes to the economic, environmental, cultural and community health of Shxwhá:y Village and its Members and the occupants of Shxwhá:y Village Land;
- p) 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 land; and
- q) Any other factors which may have an impact on the community or Shxwhá:y Village Lands.

*Examples of Recommendations*

7.9. In making recommendations to Council, the CEO or the Advisory Committee may make any relevant recommendations including:

- a) any recommendation relating to the general factors set out in subsection 7.8;
- b) whether there should be bonds posted or irrevocable letters of credit and, if so, in what percentage or what amount;
- c) dedication of up to 5% of the area of the land for parks, greenspace or community use or a cash donation in lieu;
- d) preferred lot reconfigurations to ensure viable subdivisions;
- e) construction of intersections, access and emergency access routes;
- f) construction of parking spaces;
- g) construction of sidewalks;
- h) purchase and installation of street lights;
- i) completion of servicing agreements with the City of Chilliwack;



- j) provision of updated plans, reports or studies, including as-built drawings after the completion of the project;
  - k) requirements for staging or sequencing of the project including requirements for interim reports;
  - l) set-backs or buffers including set-backs or buffers from property lines and environmental features;
  - m) mitigation measures for flood plain requirements and/ or erosion control or dyking;
  - n) noise and dust prevention or mitigation measures such as erosion and sediment control plans; and
  - o) any other relevant terms or conditions.
- 7.10. The CEO shall ensure that recommendations under this Part are written up within 45 days after the Committee meeting or the CEO's review.

*CEO May Request Further Information*

- 7.11. After reviewing the recommendations from the Committee and any comments from adjacent land-owners and from Shxwhá:y Village administration, the CEO may request further information, plans, reports, or other relevant material from the applicant which the applicant shall provide.

*Timelines*

- 7.12. The CEO shall, as soon as practicable after having received the comments under subsection 7.6 and 7.7, or within 14 days of having received adequate additional information requested under subsection 7.11, forward the application to Council along with:
- a) All relevant documents, maps, plans, reports and other information;
  - b) Recommendations from the Advisory Committee;
  - c) Any comments received from adjacent land-owners or Members;
  - d) Any comments or recommendations from Shxwhá:y Village administration; and
  - e) Any comments from the City of Chilliwack.

*Council Decisions*

- 7.13. As soon as practicable after receiving the application and information set out in section 7.12 Council shall decide whether or not to approve the application and,

without limiting the generality of Council's authority, Council may:

- a) Reject the application, or
- b) Approve the application with any reasonable terms or conditions, including, but not limited to terms or conditions relating to the items set out in subsections 7.8 and 7.9.

## **8. OFFENCES, PENALTIES AND ENFORCEMENT**

### *Penalties*

- 8.1. 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.
- 8.2. A fine payable under subsection 8.1 shall be remitted to the Shxwhá:y Village by the Court, after reasonable Court costs have been deducted.
- 8.3. Despite subsection 8.1, Shxwhá:y may also authorize the CEO, a designated official or an Enforcement Officer to issue a ticket or violation notice to impose a sanction or fine for contraventions of this Law.

### *Enforcement and Stop Work Orders*

- 8.4. In addition to any other applicable fine, penalty or remedy, Council, the CEO, or a designated official or Enforcement Officer may:
  - a) 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 subsection 6.1 or 6.2 or any related activity or use; or
  - b) 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 Person who constructed or installed the structures, works or installations without proper authorization.
- 8.5. A Stop Work Order imposed under subsection 8.4 may be registered in court and enforced as a court order and continues in force until the condition that led to it is remedied or until the activity that is the subject of the Stop Work Order receives a permit or authorization under this Law.

## **9. COMING INTO FORCE**

### *Date Law Comes into Force*

- 9.1. This Law shall come into force and effect on the date it is passed by Council

Resolution after complying with the requirements of section 7 of the Land Code.

BE IT KNOWN that this Law entitled *Shxwhá:y Village Subdivision, Development and Servicing Law* is hereby enacted by a quorum of Council at a duly convened Council of the Shxwhá:y Village held on 6-30, 2015.

