

LYA'QT SLEWÓYELH

**Shxw'ówhámél First Nation
Business Law, 2018**

**(a law to provide for the licensing and regulation of business activities carried out within
Shxw'ówhámél Lands)**

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WHEREAS:

- A. We, the Shxw'ōwhámél First Nation ("**Shxw'ōwhámél**"), being a member of the Tiyt Tribe, have and maintain Indigenous Title, Rights and interests to our lands and resources within S'ólh T'émèxw, our Stó:lō Territory;
- B. Our Indigenous Title, Rights and interests are expressed in our Halq'eméylem language as: "*S'ólh T'émèxw te ikw'el'ó. Xólhmet te mékw'stám it kwelát*", meaning "This is our land. We have to take care of everything that belongs to us";
- C. *Tómiyeq̓w* – meaning, at all times we have a responsibility to our past seven generations and seven generations into the future;
- D. We have a unique relationship with our *Sxexó:mes*, including our lands and resources, which is expressed in our *Sxwōxwiyá:m*, *Sqwélq̓wel* and *Shxwelí*, which together help define our Indigenous Title, Rights and interests;
- E. We have 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*;
- F. We have taken back our unextinguished right to control and manage our Shxw'ōwhámél Lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and have enacted the *Shxw'ōwhámél First Nation Land Code*, verified on October 23, 2014 (the "**Land Code**");
- G. Pursuant to the Land Code, our Si:yá:m Council is authorized to pass various laws relating to lands, including laws relating to development on Shxw'ōwhámél Lands; and
- H. Pursuant to its authority, Si:yá:m Council has developed a business licensing system to track and regulate the development and conduct of business activities on our Shxw'ōwhámél Lands,

NOW THEREFORE BE IT RESOLVED THAT this *Lya'qt Slewóyelh*, the *Shxw'ōwhámél First Nation Business Law, 2018*, (the "**Law**") is hereby enacted as a law of the Shxw'ōwhámél First Nation.

PART 1 – NAME

- 1.1 Short Name. This Law may be cited as the *Shxw'ōwhámél Business Law*.

PART 2 – PURPOSE AND APPLICATION

- 2.1 Purpose. The purpose of this Law is to implement a business licensing system to track and regulate the development and conduct of business activities on Shxw'ōwhámél Lands.
- 2.2 Application. The provisions of this Law apply to all Shxw'ōwhámél Lands, as defined in the Land Code.

- 2.3 Authority. The Lands Department is responsible for implementing this Law and will have all powers necessary to give effect to this Law. The Lands Department may, from time to time, refer to Council for guidance and advice on the implementation of this Law. The Lands Department may also delegate any part of its authority under this Law to other Persons.
- 2.4 Non-Derogation. No provision of this Law, or any communication, negotiations or engagements carried out pursuant to it, does, or may be deemed to, prejudice, limit, abrogate or derogate from any of Shxw'ōwhámél's title, rights or interests.

PART 3 – INTERPRETATION

- 3.1 Land Code Definitions. Capitalized words not defined in this Law have the same definitions as in the Land Code.
- 3.2 Definitions. For the purpose of this Law, the following definitions apply:

"Applicant" means any person who makes an application for a Licence;

"Application" means an application for a Licence submitted in accordance with Part 7;

"Business" means, subject to section 4.2, the carrying on of a commercial or industrial undertaking, or the provision of professional, personal, contractual or other services, within Shxw'ōwhámél Lands for the purpose of any gain or profit. For greater certainty, carrying on an undertaking includes:

- (a) advertising in any public manner as being open for business of any kind;
- (b) dealing, buying, renting, selling, bartering, displaying or offering by advertisement or otherwise to buy, sell, barter, rent or display any commodity or thing of any kind, either on behalf of oneself or others; and
- (c) advertising or indicating by any means that there is an openness and/or willingness to render or offer to render professional, personal, contractual or other services to any other person for the purpose of gain or profit;

"Business Licence Officer" means such person(s) designated by the Lands Department to administer the issuance of Licences in accordance with this Law;

"Council" means the appointed Si:yá:m Council of the Shxw'ōwhámél First Nation Leadership Governing Body, as defined in *Shxw'ōwhámél First Nation Governance Policy*, ratified on January 14, 2018;

"Enforcement Officer" has the meaning provided to that term in the *Shxw'ōwhámél Enforcement Law*;

"Floor Area" means that area within a building that is used for display purposes or to service customers, and includes storage areas, but does not include those areas used exclusively for the purpose or use of the employees, operator and/or owner of the Business;

"**Ground Area**" means that area outside a building that is used for display purposes or to service customers, and includes storage areas, but does not include those areas set aside exclusively for the purpose of the employees, operator and/or owner of the Business;

"**Lands Department**" means the Lands Department of Shxw'ōwhámél;

"**Licence**" means a valid licence to carry out a Business issued in accordance with Part 8;

"**Licence Fee**" means the fee for a Licence, as set out in Schedule "A", which fee is, subject to section 7.4, non-refundable;

"**Member**" means a member of Shxw'ōwhámél;

"**Person**" includes an individual, society, corporation, partnership or party, whether acting by themselves or by an agent or employee, and the successors, permitted assigns and personal or other legal representatives of such person to whom the context legally applies;

"**Premises**" includes a store, office, warehouse, factory building, enclosure, yard or other place occupied or capable of being occupied by any Person for the purpose of any Business;

"**Public Place**" includes, but is not limited to, any highway, boulevard, park or other real property owned, held or administered by Shxw'ōwhámél;

"**Qwi:qwelstóm**", the Halq'eméylem word to describe "justice", is an underlying principle of Stó:lō forms of mediation and dispute resolution whose goal is "to make things right"; and

"**Shxw'ōwhámél**" or "**SFN**" means Shxw'ōwhámél First Nation.

3.3 General Interpretation.

- (a) Our *Slewóyelh*, our traditional laws, apply to the interpretation of this Law.
- (b) Unless otherwise expressly provided, the structures, organizations, bodies, principles and procedures established or used in this Law will be guided, interpreted and carried out in accordance with the culture, traditions and customs of Shxw'ōwhámél, including *Qwi:qwelstóm*.
- (c) The headings of parts and section of 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.
- (d) A word in the singular form may be read in the plural form if the context allows it and a word in the plural form may be read in the singular form if the context allows it. All genders are included in any gender expressed.
- (e) The words "include", "includes" and "including" are to be read as if they are followed by the phrase "without limitation".

- (f) Any reference to a statute means that statute, and any regulations made under it, all as amended or replaced from time to time.

3.4 Schedule. The following Schedule forms part of and is integral to this Law:

- (a) Schedule "A" – Licence Fees

PART 4 – PROHIBITED ACTIVITIES

4.1 Licence. No Person may undertake a Business on Shxw'ōwhámél Lands without a valid and subsisting Licence issued under and in accordance with this Law.

4.2 Prohibitions. Subject to Part 6, the following activities are prohibited on Shxw'ōwhámél Lands:

- (a) canvassing or soliciting business on or in any Public Place or by door-to-door in any manner whatsoever for the sale of goods, wares or merchandise or any article or thing for future delivery;
- (b) adult entertainment stores, meaning a portion of or the entire Premises where:
 - (i) the business of selling or offering for sale sex paraphernalia or graphic sexual material is carried on;
 - (ii) one or more pornographic film viewers are made available for use by the public; or
 - (iii) where adult films, as defined in the *Motion Picture Act* (British Columbia) are made available to any Person for sale or rent;
- (c) adult movie theatres, meaning a motion picture theatre where adult or restricted designated motion pictures, as defined in the *Motion Picture Act*, are shown;
- (d) animal or pet breeding for commercial purposes, including puppy and kitten farms;
- (e) construction, sale or trade of weapons or other items whose primary purpose is to cause harm, unless such weapons or items are intended for cultural reasons and their construction, sale or trade has been pre-approved in writing as a permitted activity by the Lands Department; and
- (f) unless otherwise permitted under other laws, including the *Shxw'ōwhámél Cannabis Law*, the sale, propagation or production of any controlled substance as defined in the *Controlled Drugs and Substances Act* (Canada),

and no Licence may be granted for any such activities.

PART 5 – LICENCE REQUIREMENT

5.1 General. Every Person seeking to undertake a Business must apply for, obtain and hold a valid Licence issued pursuant to this Law, and all Business activities carried out on

Shxw'ōwhámél Lands must be carried out in accordance with the terms and conditions of the applicable Licence.

5.2 Separate Businesses. Where a Business is carried on, in or from, more than one Premise within Shxw'ōwhámél Lands, the business being carried on from or in each such Premise is deemed to be a separate Business and requires a separate Licence.

5.3 Mobile Businesses.

(a) Notwithstanding section 5.2, the Lands Department may, on a case-by-case basis, issue a Licence to a mobile Business operating on Shxw'ōwhámél Lands to enable the Licence holder to carry out its permitted Business activities at more than one location or Premise.

(b) A holder of a Licence permitting mobile Business activities must carry such Licence with it at all times that such holder carries out its Business activities, and provide evidence thereof whenever reasonably requested.

5.4 Limited Effect of Licence. A Licence is not a representation or warranty that the licenced Business or the corresponding Premises complies with the laws of Shxw'ōwhámél or with any other laws, regulations or standards.

PART 6 – EXEMPTIONS

6.1 General Exemptions. Notwithstanding sections 4.1, 4.2 and 5.1, and as long as they are carried out in compliance with other applicable laws, the following activities are permitted on Shxw'ōwhámél Lands and no Licence is required for any of them:

(a) public schools;

(b) teaching of music, handicrafts or art as a home occupation where such teaching involves not more than one class of five (5) students at one time;

(c) garage sales or yard sales held by Members or occupants of Shxw'ōwhámél Lands where there are fewer than four (4) days per year of such sales;

(d) infrequent sales of small batches of baked goods cooked in the home of a Member or occupant of Shxw'ōwhámél Lands; and

(e) small scale, non-commercial, periodic fundraising events by Members or organizations or occupants of Shxw'ōwhámél Lands.

6.2 Waiver. For certainty, notwithstanding that the activities listed in section 6.1 do not require a Licence, no claims may be brought against Shxw'ōwhámél, its employees, members, officers, representatives or Council in relation to such activities or the Premises in which they are carried out.

PART 7 – LICENCE APPLICATIONS

7.1 General. A Person seeking to undertake a Business must submit an Application to the Business Licence Officer in accordance with this Part 7.

7.2 Application Content. An Application must contain the following:

- (a) completed and signed (by a duly authorized agent of the Business) Licence application form, which forms are available from the Lands Department;
- (b) contact information (telephone number, mailing address, and email) for the Applicant, Business owner (if different from the Applicant), and other key personnel involved in the Business;
- (c) name, address, phone number, incorporation number, nature and location of the Business;
- (d) information on the Premises in which the Business is to be carried out in, including:
 - (i) address and the legal description of the Premises;
 - (ii) information on the size of the Floor Area and the Ground Area;
 - (iii) information on permitted uses of such Premises (including applicable zoning, development, subdivision, strata and land use requirements);
 - (iv) proof of compliance with all applicable fire safety laws and legal requirements; and
 - (v) letters or certificates of approval for the use of Premises for the Business, if applicable;
- (e) proof of insurance coverage, if applicable;
- (f) applicable Licence Fee;
- (g) proof of other licensing for the specific Business activities, including:
 - (i) for an automobile dealership, proof of licensing under the *Motor Dealer Act* (British Columbia);
 - (ii) for a daycare, proof of licensing under the *Child Care Licensing Regulation* (British Columbia);
 - (iii) for the construction or alteration of a restaurant or food premises, proof of approval by a health official under the *Public Health Act* (British Columbia);
 - (iv) for the preparation, distribution, and selling of foods (e.g. restaurants, grocery stores, hot dog stands, etc.) other than pre-packaged or pre-bottled foodstuffs, proof of a food service permit under the *Food Premises Regulation* (British Columbia);
 - (v) for the sale or distribution of liquor, proof of licensing under the *Liquor Control and Licensing Act* (British Columbia); and
 - (vi) for gaming facilities, proof of licensing under applicable laws;

- (h) an acknowledgement by the Applicant that the Licence does not provide authorizations for land use or other matters, and that other permits or authorizations may be required;
- (i) signed release and waiver releasing and indemnifying Shxw'ōwhámél against any claims in relation to the Business or Premises for which the Licence is being sought; and
- (j) such other information as the Lands Department may require from time to time.

7.3 Fee Waived. Notwithstanding subsection 7.2(f), payment of a Licence Fee is waived where a Business:

- (a) is carried on by Shxw'ōwhámél, one of its departments, or one of its wholly-owned corporations;
- (b) is carried on for not-for-profit purposes; or
- (c) entails the creation and sale of carvings, crafts, and other art work and crafts by Members.

7.4 Refunds. A Person ceasing to carry on Business before June 30th shall be entitled to a refund of one half the annual Licence Fee, but no other refunds shall apply to Licence Fees paid.

7.5 Late Fees. Failure to renew a Licence in accordance with section 9.4 may result in the levying of a late renewal fee in an amount determined by the Business Licence Officer, which amount will not exceed 25% of the actual Licence Fee.

7.6 True and Correct Information. Any Person submitting an Application must give only true and correct information and details regarding the Business, and may not make a false declaration or conceal material facts that should and/or need to be disclosed to enable the applicable decision-maker to make a fair and appropriate determination regarding the subject Application.

PART 8 – ISSUANCE OF LICENCES

8.1 Authority. The Business Licence Officer is authorized to grant, issue or transfer Licences in accordance with this Law.

8.2 Considerations. A Business Licence Officer will work with the Lands Advisory Committee to review Applications, and the Business Licence Officer may consider any of the following in making a decision regarding an Application:

- (a) the completeness of the Application;
- (b) the accuracy of information provided in the Application;
- (c) any health, safety and/or environmental risks associated with the proposed Business activities;
- (d) any risks to Shxw'ōwhámél traditional, cultural or spiritual values;

- (e) the Applicant's compliance with previously issued Licences;
- (f) any comments or recommendations provided by Council; and
- (g) such other matters that the Business Licence Officer deems applicable to the specific Business.

8.3 Terms and Conditions. In granting a Licence, the Business Licence Officer will include specific terms and conditions to such Licence that the Licence holder must abide to, including:

- (a) the Person to whom the Licence is issued, and their contact information as provided in the Application;
- (b) a requirement that all Business activities must be carried out in a lawful manner;
- (c) the term (duration) of the Licence and renewal rights in accordance with Part 9;
- (d) the designated Premises in which the Business may be carried out in;
- (e) display requirements, including requirements to:
 - (i) display a copy of the Licence in a conspicuous place on the Premises; and
 - (ii) where operating a commercial vehicle in connection with the Business, have displayed on both sides of the vehicle the name and address of the Licence holder or alternatively the trade name of the Business and telephone number of the owner of the vehicle;
- (f) notice requirements, including requirements to promptly provide notice to the Lands Department of any proposed change in the:
 - (i) mailing and/or business address, provided that if such change is due to a relocation of the Business to another Premise, a Licence change form in accordance with section 10.2 must be completed and submitted for approval prior to such relocation of the Business;
 - (ii) nature of the Business;
 - (iii) number of vehicles used in the Business; and
 - (iv) Floor Area, Ground Area, number of persons engaged in the Business, number of machines, and/or number of rental units (if applicable); and
- (g) such other terms and conditions that the Business Licence Officer sets, taking into account the nature and risks of the particular Business.

8.4 Reporting to Council.

- (a) The Business Licence Officer will report to Council at regular Council meetings on recent Licence applications received by the Business Licence Officer.

- (b) Council will have the right and opportunity to review any Licence application submitted to the Business Licence Officer, and the right to provide comments and/or recommendations on such applications to the Business Licence Officer within ten (10) business days of the Council meeting at which information on the application was provided by the Business Licence Officer.

PART 9 – LICENCE TERM AND RENEWAL

- 9.1 Standard Term. Except as provided in sections 9.2 and 9.3, Licences are issued for a twelve (12) month period commencing on the 1st day of April and terminating on the 31st day of March in the following year.
- 9.2 Partial Terms. Where an Application is submitted after April 1st, a Licence may be issued for a partial term commencing on the date specified in the Licence and terminating on the 31st day of March in the following year.
- 9.3 Specific Terms. Licences for the following Business activities have the terms indicated:
 - (a) a theatre, amusement hall, concert hall, music hall, rink, amusement park or other place of amusement, entertainment or exhibition will be for such period requested in the Application or such other duration as the Business Licence Officer deems appropriate for the intended activities;
 - (b) a circus, horse show, dog or pony show, exhibition or other itinerant show or entertainment will be for up to three (3) days; and
 - (c) a temporary or seasonal use will be for such period requested in the Application or such other duration as the Business Licence Officer deems appropriate for the intended activities.
- 9.4 Renewals.
 - (a) Licences must be renewed in accordance with subsection 9.4(b) before March 15 of the applicable calendar year, or such other date set by the Lands Department.
 - (b) To renew a Licence, Licence holders must:
 - (i) pay the applicable Licence renewal fee to the Lands Department; and
 - (ii) sign a statement in the prescribed form stating that the Licence holder is in compliance with the Licence terms and conditions and submit such statement to the Lands Department along with the renewal fee payment.
 - (c) If the Licence is not renewed within sixty (60) days of April 1, the Licence shall be terminated, applicable fines shall be applied and Shxw'ōwhámél may post a notice of Business Licence termination at the applicable Premises and on the Shxw'ōwhámél website. The holder of a terminated Licence must apply for and obtain a new Licence in accordance with Part 7 and Part 8 before it may recommence any of its Business activities.

PART 10 – TRANSFERS AND CHANGES TO LICENCES

- 10.1 General Prohibition. No Person may transfer, give, lend, sell or otherwise grant any interest in a Licence to any other Person other than in accordance with this Law.
- 10.2 Change Forms. Any Licence holder that seeks to change:
- (a) the Premises to which the Licence applies; or
 - (b) the Person to which the Licence is issued,
- must first complete a Licence change form in accordance with such direction provided by the Lands Department, and must submit such completed form and transfer fee (see Schedule “A”) to a Business Licence Officer for review.
- 10.3 Decision. A Business Licence Officer may consider any of the factors outlined in section 8.2 in making a decision to approve, reject, or set terms and conditions to any approval of an application submitted pursuant to section 10.2.

PART 11 – LICENCE SUSPENSION

- 11.1 Right to Suspend. The Business Licence Officer may suspend any Licence for any period that he/she determines to be necessary if the holder of the Licence:
- (a) is convicted of an offence under any law in respect of the Business for which the holder is licenced or with respect to the Premises to which the Licence applies;
 - (b) has, in the opinion of the Business Licence Officer, been guilty of such gross misconduct in respect of the Business or in respect to the Premises to which the Licence applies to warrant the suspension of the holder's Licence;
 - (c) has ceased to meet the lawful requirement to carry on the Business for which the holder is licenced or in respect to the Premises to which the Licence applies;
 - (d) has, in the opinion of the Business Licence Officer, conducted his/her Business in a manner, or performed a service in a manner, or sold or distributed anything, that may be harmful or dangerous to the health or safety of a person actually or apparently under the age of nineteen (19) years;
 - (e) has refused to provide to Persons entitled to receive an exemption for the payment of GST or PST, as the case may be, in accordance with the applicable legislation creating such exemptions;
 - (f) is in breach of any of the terms and conditions of the Licence; and/or
 - (g) has failed to pay the Licence renewal fee within thirty (30) days of the end of term specified in the Licence.
- 11.2 Suspension Requirements. The suspension of a Licence by a Business Licence Officer must be made in writing, signed by the Business Licence Officer and served on the person holding such licence or delivered by registered mail to the address stated on the Licence.

- 11.3 Notice. The Business Licence Officer may post a notice of a suspension made pursuant to section 11.2 on the Premises for which the Licence was issued and this notice must not be removed until:
- (a) the Licence is reinstated;
 - (b) the holder of the suspended Licence ceases to occupy the Premises covered by such Licence;
 - (c) a new Business is licenced for the Premises in accordance with this Law; or
 - (d) twelve (12) months have passed since the applicable Licence was suspended.
- 11.4 Suspended Licences. No Person may carry on any Business activities pursuant to a suspended Licence.

PART 12 – LICENCE REVOCATION

- 12.1 General. A Business Licence Officer may revoke a Licence for reasonable cause or if directed by Council, after giving notice to the Licence holder in writing and giving the Licence holder an opportunity to be heard.
- 12.2 Exemption. The notice and opportunity to be heard referred to in section 12.1 is not required in respect of a Licence holder who, by reasonable efforts, cannot be found.
- 12.3 Notice. A notice of revocation may be posted by a Business Licence Officer on the Premises for which the revoked Licence was issued and such notice must not be removed until:
- (a) the holder of the revoked Licence ceases to occupy the Premises covered by such Licence;
 - (b) a new Business is licenced for the Premises in accordance with this Law; or
 - (c) twelve (12) months have passed since the applicable Licence was revoked.

PART 13 – APPEALS

- 13.1 Right to Appeal. A Person may appeal a decision to grant a Licence:
- (a) on the basis of reasonable cause;
 - (b) on payment of a \$100 fee (refundable if the appeal is granted in the appellant's favour);
 - (c) within thirty (30) days of the decision; and
 - (d) in accordance with this Part 13.
- 13.2 Appealable Decisions. A Person may appeal any of the following decisions of a Business Licence Officer to Council:

- (a) a decision to issue or deny a Licence;
 - (b) a suspension of a Licence; and
 - (c) a revocation of a Licence.
- 13.3 Content of Appeal. An appeal made in accordance with section 13.2 must be in writing and must include sufficient information to enable Council to properly consider the appeal, including, as set out in a concise manner, the grounds upon which the appeal is made and any applicable information thereto.
- 13.4 Appeal Decision. Council must consider appeals at regular Council meetings within a reasonable time after the receipt thereof. Both the appellant and Business Licence Officer have the right to be heard when the appeal is being considered by Council. In making a decision on an appeal, Council may either concur with, reverse or modify the applicable decision of the Business Licence Officer and must render its appeal decision within ten (10) days of receipt of the written appeal submitted in accordance with section 13.3. Council's decision will be final and binding, and not subject to further appeal.
- 13.5 Continuation of Business Activities. For clarity, Business activities that are permitted under a Licence that is being appealed may continue during the appeal period.

PART 14 – ENFORCEMENT AND OFFENCES

- 14.1 General. No Person shall obstruct, interfere with or hinder Council, a Business Licence Officer, or any authorized employee, officer or agent in the carrying out of their duties and responsibilities under this Law.
- 14.2 Right to Enter. For the purpose of this Law, a Business Licence Officer may enter any parcel of land or Premises within Shxw'ōwhámél Lands that are subject to any of the terms and conditions of this Law, in order to ascertain whether the provisions of this Law are being complied with.
- 14.3 Right of Access. Every registered holder of any interest in a parcel of Shxw'ōwhámél Lands must give the Business Licence Officer such access at any reasonable hour to such parcel and every part thereof and such information with respect thereto as may be reasonably required to enforce this Law.
- 14.4 Offence. Every person who:
- (a) violates or causes or allows any of the provisions of this Law to be violated;
 - (b) fails to comply with any of the provisions of this Law, or any other applicable law; or
 - (c) neglects or refrains from doing anything required under the provisions of this Law,

shall be deemed to have committed an offence under this Law and shall be liable to a fine or imprisonment, or to both a fine and imprisonment, not exceeding the maximum allowed under the *Shxw'ōwhámél Enforcement Law*, and each day such violation is caused or allowed to continue constitutes a separate offence.

14.5 Tickets.

- (a) An Enforcement Officer may issue a ticket for any offence under this Law.
- (b) Any Person issued a ticket under this Law will be required to pay the amount set from time to time for that ticket by regulation adopted by Council.
- (c) A Person seeking to appeal a ticket issued under this Law may apply in writing to the Lands Department.
- (d) The Lands Department may, after considering a person's application to appeal a ticket and acting reasonably, waive the ticket, reduce the fine, or enforce the ticket.
- (e) After consideration of an application to appeal the ticket, the Lands Department will notify the applicant in writing of its decision, which decision will be final and binding.

14.6 Qwi:qwelstóm. Notwithstanding sections 14.4 and 14.5, Shxw'ōwhámél may, as directed from time to time by Council, refer the offence to Qwi:qwelstóm to determine an appropriate enforcement mechanism for a Person that commits an offence under this Law and who is willing to participate in the Qwi:qwelstóm alternative dispute process.

PART 15 – IMMUNITY

15.1 General. No action for damages lies or may be instituted against present or past Council, a Business Licence Officer, or members, employees, representatives or agents of either Shxw'ōwhámél or Council:

- (a) for anything said or done or omitted to be said or done by that Person in the actual or required performance of the Person's duty or exercise of their authority; or
- (b) for any alleged neglect or default in the actual or required performance of the Person's duty or exercise of their authority.

15.2 No Defence. Section 15.1 does not provide a defence if:

- (a) the Person in relation to the conduct that is the subject matter of the action, has been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
- (b) the cause of action is libel or slander.

15.3 No Liability. None of Shxw'ōwhámél, present or past Council, or members, employees, representatives or agents of any of Shxw'ōwhámél or Council are liable for any damages or other loss, including economic loss, sustained by any Person, or to the property of any Person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Law or any other Shxw'ōwhámél law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other Shxw'ōwhámél law. For clarity, this section 15.3 also applies to any business activities carried out without a Licence granted under this Law.

- 15.4 Limitation Period. Subject to sections 15.1 and 15.3, any actions against Shxw'ōwhámél (including Council and its employees) for the unlawful doing of anything that:
- (a) is purported to have been done under the powers conferred by this Law or any Shxw'ōwhámél law; and
 - (b) might have been lawfully done if acting in the manner established by law,
- must be commenced within six (6) months after the cause of action first arose.
- 15.5 Required Notice. Shxw'ōwhámél is in no case liable for damages unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to Shxw'ōwhámél within two (2) months from the date on which the damage was sustained. In case of the death of a person injured, the failure to give notice required by this section is not a bar to the maintenance of the action. Failure to give the notice or its insufficiency is not a bar to the maintenance of an action if the court before whom it is tried, or, in case of appeal, the court of appeal, believes:
- (a) there was reasonable excuse; and
 - (b) Shxw'ōwhámél has not been prejudiced in its defence by the failure or insufficiency.

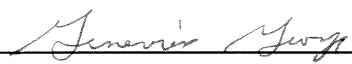

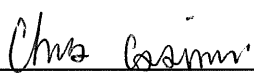
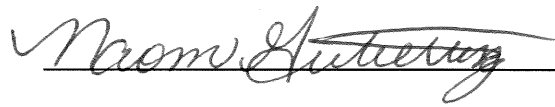
PART 16 – AMENDMENT

- 16.1 General. Subject to sections 16.3 and 16.4, this Law may only be amended in the manner provided in the Land Code.
- 16.2 Regular Reviews. Shxw'ōwhámél will review and, if appropriate, amend this Law in accordance with section 16.1 every five (5) years, or whenever Council determines, in its sole discretion, that this Law should be reviewed and, if appropriate, amended.
- 16.3 Amendments to Schedules. The Lands Department may, from time to time, propose an amendment to a Schedule to this Law, which amendment will become effective on approval by Council.
- 16.4 Minor Amendments. Council may, from time to time, pass a resolution authorizing minor amendments to this Law for any of the following purposes:
- (a) to correct typographical or grammatical errors;
 - (b) to reference relevant, new or amended Shxw'ōwhámél law(s);
 - (c) to change the applicable entity(ies) having authority over the implementation of this Law;
 - (d) to align with an order by a court; and
 - (e) to clarify this Law where there is no reasonable dispute about the intention underlying the original provision.

PART 17 – GENERAL PROVISIONS

- 17.1 Compliance with other Laws. Where any other law or legal requirement may apply to any matter covered by this Law, compliance with this Law will not relieve the person from also complying with the provisions of such other applicable law or legal requirement.
- 17.2 Severability. In the event that all or any part of any section of this Law are found by a court of competent jurisdiction to be invalid, such section shall be severable, and the remaining portions and sections of this Law shall remain in full force and effect.
- 17.3 Orders. An order made pursuant to this Law will have immediate effect.
- 17.4 Coming into Force. This Law will come into force and effect on the date that it is duly passed by Shxw'ōwhámél in accordance with the process outlined in the Land Code.

BE IT KNOWN that this Law is entitled the *Shxw'ōwhámél First Nation Business Law, 2018* is hereby enacted by a quorum of Council of the Shxw'ōwhámél First Nation held on November 1, 2018.

 _____	 _____
 _____	 _____
_____	_____

Quorum consists of __ Council members.

SCHEDULE A

LICENCE FEES

The following Licence Fees are for a one (1) year period, beginning on April 1st and ending on March 31st of the following year, unless otherwise provided for in this Law.

Business Category A

Licence Fee: \$100.00

- Appliance Repair Service
- Beauty Salon / Barber / Tattoo Parlour
- Bookkeeping/Tax Service
- Catering
- Coffee Shops (no liquor)
- Consultant
- Day Care (less than three unrelated children)
- Dog Grooming
- Landscape/Garden Service
- Nursery
- Photographer
- Private Teacher/Tutor
- Restaurant (no liquor)
- Second Hand Store
- Shoe Repair Service
- Sign Painter/Maker

Business Category B

Licence Fee: \$200.00

- Auto Body / Automotive Repairs
- Auto Tow Service
- Bakery / Convenience Store / Food Store
- Building Materials Sales
- Carpets/Flooring
- Cannabis retail facility
- Contractor/Subcontractor
- Fitness/Recreational
- Machine Shop
- Manufacturing/Packing Plant
- Mobile Vendor
- New/Used Automotive Sales
- Office Machine Sale/Service
- Printing/Publishing Service
- Retail Merchant

- Taxi/Delivery and Courier Service
- Transportation/Trucking Service
- Upholstery
- Web Design
- Wholesale Merchant

Business Category C

Licence Fee: \$250.00

- Accountant
- Appraiser
- Architect
- Cannabis production facility
- Chiropractor
- Dentist
- Drafting Service
- Engineer
- Financial Institution
- Insurance Agent
- Investment Dealer/Stock Broker
- Land Surveyor
- Legal Counsel
- Massage Therapist
- Notary Public
- Optician/Optometrists
- Orthodontist
- Osteopath
- Pharmacist
- Physician/Surgeon
- Physiotherapist
- Real Estate Agent
- Therapist
- Veterinarian

Note: The Licence Fee applies to each additional professional person engaged in the businesses listed above and doing business as a separate entity (not including the principal owner and professionals engaged as employees)

Business Category D

Specific Licence Fees, as follows:

- Automatic Teller Machines: \$25.00 per unit
- Cabaret/Bar/Pub/Liquor Lounge: \$500.00
- Carnival/Circus: \$300.00 per day, plus \$1,000 security deposit for site clean-up
- Hotel/Motel/Apartments/Rooms: \$50.00 plus \$5.00 for each unit
- Mobile Home Parks: \$50.00 plus \$5.00 for each pad
- Private Hospital/Health Care Facilities: \$150.00 plus \$10.00 per bed

- Restaurants/Coffee Shop with liquor licence: \$200.00
- Vending Machines: \$10.00 per unit
- Christmas Tree Sales: \$25.00 per season
- Farmer's Market Vendor: \$50.00 per year

Pro-rated Licence Fees: The Licence Fee for a varied period shall be subject to a minimum fee of 50% the annual applicable fee, with a minimum fee of \$25.00.

Licence Transfer Fee: \$25.00 per transfer from Premises to Premises or person to person

