



SOOWAHLIE FIRST NATION

Law No. 2017-69

SUBDIVISION, DEVELOPMENT AND SERVICING LAW

January 2018

Contents

PART 1 - NAME.....	4
PART 2 - PURPOSE.....	4
PART 3 - WHERE THIS LAW APPLIES.....	4
PART 4 - DEFINITIONS	4
PART 5 - GENERAL PROVISIONS	4
PART 6 - SUB-DIVISION, DEVELOPMENT AND SERVICING	4
Prohibited Activities without Authorization	4
Exemptions.....	5
PART 7 - APPLICATIONS AND APPROVALS	5
Concurrent Re-zoning Applications	6
Heritage Exemptions.....	6
Review by Advisory Committee and other Departments	6
Principles and Factors in Reviewing Applications	7
Examples of Recommendations.....	7
Lands Governance Director May Request Further Information	8
Timelines	8
Council Decisions	8
PART 8 - NON-CONFORMING USES	9
Procedure if non-conforming structure significantly damaged.....	9
PART 9 – REGULATIONS	10
PART 10 - OFFENCES, PENALTIES AND ENFORCEMENT	11
Penalties.....	11
Enforcement and Stop Work Orders	11
PART 11 - COMING INTO FORCE	11
Date Law Comes into Force	11

SYUWÁ:LELH - Stó:lō Laws

“S’ólh Téméxw te ikw’elo. Xolhmet te mekw’stam it kwelat”

This is Our Land, we have to take care of everything that belongs to us

“Xaxastexw te mekw’stam”

Respect all Things

“Ewe chexw qelqelit te mekw’stam loy qw’ esli hokwex yexw lamexw ku:t”

Don’t waste, ruin or destroy everything, only take what you need

“T’xwelátse”

Do things in a good way, respect each other

PREAMBLE

WHEREAS Soowahlie First Nation 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*,

the Soowahlie First Nation has taken over control and management of Soowahlie Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Soowahlie Land Code* effective the 1st day of September 2016, and

under the *Soowahlie Land Code*, Soowahlie Council is authorized to pass various laws relating to lands including laws relating to regulation of zoning, subdivision and developments under section 3.3 of the Code,

NOW THEREFORE this *Soowahlie First Nation Subdivision, Development and Servicing Law* is hereby enacted as a Law of the Soowahlie First Nation.

PART 1 - NAME

- 1.1 This Law may be cited as the Soowahlie First Nation *Subdivision, Development and Servicing Law*.

PART 2 - PURPOSE

- 2.1 The purpose of this law is to promote environmentally sustainable, healthy, safe, convenient and well-planned use of Soowahlie Lands.

PART 3 - WHERE THIS LAW APPLIES

- 3.1 The provisions of this law apply to the whole area of the Reserve and Soowahlie Lands as defined in the Soowahlie Land Code.

PART 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 Soowahlie Laws enacted by Council, and includes any delegate, the RCMP and any peace officer.

PART 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.

PART 6 - SUB-DIVISION, DEVELOPMENT AND SERVICING

Prohibited Activities without Authorization

- 6.1 None of the following are permitted within Soowahlie Lands except with a permit or written authorization from Soowahlie, in strict conformity with the Land Code, 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, rip-rapping, erosion control, diking, sewer, water, and other infrastructure,

- e) construction, alteration, renovation, enlargement, addition, demolition or removal of industrial, commercial or residential structures, including the installation, demolition or removal of signs, swimming pools and decks,
- f) anything that puts structures or people at risk within the flood plain or increases flood risks,
- g) anything that takes place in or within 30m of a water body or fish habitat,
- h) deposit or removal of more than 10 m³ (approximately one dump truck load) of clean, non-polluted soil, gravel or other materials per year per parcel of land,
- i) storage of blasting materials, explosives, chemicals, or more than 500 litres of fuel or hazardous materials,
- j) cutting, removal or alteration of any tree, and
- k) removal of Natural Resources.

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

- a) subdivision or partitioning of one or more parcels of Soowahlie 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) carrying out any of the activities set out in subsection 6.1 or 6.2 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 and its successor Codes, although all such structures and activities are required to comply with all other Laws:

- a) construction of any detached non-residential single storey structure the footprint of which is less than 200 square feet in total,
- 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,
- 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 m³ of clean, non-contaminated soil, gravel or other material,
- d) diking, erosion control, flood protection or similar measures during an emergency, provided any necessary contact is made with B.C. One Call, or
- e) installation of trailers and temporary single storey structures, left in place for one month or less at a time or three months total per year, provided such trailers and temporary structures, with no foundations, no hook-ups or connections to services and are not used for residential accommodation.

PART 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 Soowahlie Lands Office or the designated Soowahlie Lands Office in the prescribed form that meets the applicable requirements set out in the following:

- a) General Engineering Requirements for Land Development on Soowahlie Lands,
- b) General Requirements for Environmental Assessments on Soowahlie Lands,

- c) Sto:lo Heritage Policy Manual or any successor Soowahlie heritage law or policy,
- 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 Soowahlie Law),
- b) Subdivision,
- c) Conceptual Plan,
- d) Approval in Principle,
- e) Development Permit,
- f) Substantial Completion,
- g) Occupancy Permit, and
- h) Completion and as-built plans.

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 Soowahlie 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.

Heritage Exemptions

7.5 Despite paragraph 7.1c), a Sto:lo Heritage Investigation Permit is not required for:

- a) construction of single family homes for Soowahlie Members, or
- b) development on a previously disturbed site with no known heritage or archaeological sites unless otherwise required by regulation or by a Council Resolution.

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 Governance Director or Lands Office staff shall:

- a) refer the application to a meeting of the Lands Governance Advisory Committee along with all relevant information and documentation,
- b) circulate the application and all relevant information and documentation within the Soowahlie administration for comment,
- c) for applications for sub-divisions, multi-family structures, or significant increases in density, post a sign on the parcel of land and refer the application to all adjacent CP holders on Soowahlie Lands, and
- d) if appropriate, refer aspects of the application to the appropriate local government.

7.7 The 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 considered by Council.

Principles and Factors in Reviewing Applications

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

- a) the promotion of health, safety, convenience and welfare of Soowahlie members and of residents and occupants and other persons who have a lawful interest in Soowahlie Lands,
- b) well planned and orderly development of Soowahlie Lands and the preservation of amenities and special features of Soowahlie Lands,
- c) compliance with Soowahlie Land Use Plan and Soowahlie Laws and with relevant federal, provincial and municipal laws and standards,
- d) environmental protection and enhancement,
- e) flood plain measures,
- f) slope stability, erosion, and geotechnical issues,
- g) adherence to Soowahlie housing policies,
- h) provision of community benefits including land and/or funds to Soowahlie for the development of community amenities,
- i) protection and enhancement of cultural and heritage sites,
- j) compatibility with Soowahlie and Sto:lo culture,
- k) viewscales, aesthetics and visual qualities,
- l) ensuring adequate parking, access and emergency access,
- m) the character of the proposed activity or project in relation to the character of the zone, neighbourhood, and the buildings already erected,
- n) the conservation of property values,
- o) potential impacts on adjacent uses, owners and occupants,
- p) the development of the zone, neighbourhood and Reserve in a manner that contributes to the economic, environmental, cultural and community health of Soowahlie and its Members and the occupants of Soowahlie Land,
- q) course of construction schedule or any requirements for completing construction and getting to a safe stage in a timely manner,
- r) 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
- s) any other factors which may have an impact on the community or Soowahlie Lands.

Examples of Recommendations

7.9 In making recommendations to Council, 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) for subdivisions, non-Members leases, and commercial, industrial developments or large-scale agricultural developments, 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 appropriate municipal government or regional district,
- 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,
- 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 Lands Governance Director shall ensure that recommendations from the Advisory Committee are written up within 30 days after the Advisory Committee meeting.

Lands Governance Director May Request Further Information

7.11 After reviewing the recommendations from the Advisory Committee and any comments from adjacent land-owners and from Soowahlie administration, the Lands Governance Director may request further information, plans, reports, or other relevant material from the applicant which the applicant shall provide.

Timelines

7.12 The Lands Governance Director shall as soon as practicable after having received the comments under subsection 7.6 and 7.7, or within 14 days of having received the 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 the Lands Governance Director and Soowahlie administration, and
- e) Any comments from the municipal or regional district governments.

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.

PART 8 - NON-CONFORMING USES

- 8.1 Despite section 7, the lawful carrying on of any class of business or trade, excluding Signs, that was lawfully in place at the time of the passage of this law may be conditionally continued as a non-conforming use subject to this section.
- 8.2 In the event that a non-conforming use is discontinued for a period of six months or longer, such non-conforming use shall not be resumed except in compliance with the provisions of this law.

Procedure if non-conforming structure significantly damaged

- 8.3 A building or structure which is non-conforming and sustains damage to sixty-six percent (66%) or more of its value cannot be repaired or replaced except in compliance with this law.
- 8.4 Where any building or structure, the use of which is non-conforming, is significantly damaged, the owner or person lawfully in possession of the building or structure shall report the damage to Soowahlie and:
- a) the General Manager or Lands Governance Director shall carry out an inspection or shall retain a qualified professional to carry out an inspection to assess that building or structure, and
 - b) if it is determined that the extent of the damage is sixty-six percent (66%) or more of its value, the General Manager or Lands Governance Director shall report the initial determination to Council for review.
- 8.5 After having reviewed the determination of the General Manager or Lands Governance Director, Council shall:
- a) decide whether to confirm, reject or vary the initial determination, and
 - b) give written notice of its decision to the person lawfully in possession of the building or structure.
- 8.6 The notice referred to in subsection 8.5 shall state:
- a) the percentage of the value of the building or structure which has, in the opinion of Council, been damaged,
 - b) that where any building or structure, the use of which is non-conforming, is damaged to the extent of 66% or more of its value, that building or structure shall not be repaired or reconstructed except in conformity with this law, and
 - c) that the person lawfully in possession of the building or structure may appeal the decision of Council within 15 days of his receipt of the notice by sending a Notice of Appeal to Council.
- 8.7 The Notice of Appeal referred to in paragraph c) shall:
- a) be in writing and signed by the appellant,
 - b) set out the name and address of the appellant,
 - c) state the percentage of the value of the building or structure which has, in the opinion of the appellant, been damaged, and
 - d) include any supporting photos, documents, expert reports, or other relevant information.
- 8.8 Within 20 days of receipt of a Notice of Appeal under paragraph c), Council shall hold a public meeting respecting the appeal.

- 8.9 Council shall give at least 7 days' notice in writing of the public meeting to:
the appellant,
- a) those persons lawfully in possession of any lands adjacent to the land on which the building or structure is situated and any other person who, in the opinion of Council, may be affected by the decision, and
 - b) such other person or persons specified by Council.
- 8.10 The General Manager or Lands Governance Director shall make available for public inspection before the commencement of the public meeting all photos, documents, reports and other material relevant to the determination of the extent of the damage to the building or structure.
- 8.11 At the public meeting, Council shall provide the following persons with an opportunity to present evidence and to make oral and written submissions regarding the extent of the damage to the building or structure in question:
- a) the appellant,
 - b) the General Manager or the Lands Governance Director,
 - c) any other person who was given notice in writing of the meeting and who wishes to be heard, and
 - d) any other person who, in the opinion of Council, is potentially affected or has information which could contribute to a fair determination.
- 8.12 Within 15 days after the public meeting, Council shall make a decision about the appeal by confirming, rejecting or varying the determination made by the General Manager, the Lands Governance Director, or a qualified professional regarding the extent of the damage to the building or structure.
- 8.13 If Council confirms that the building or structure has been damaged to the extent of sixty-six percent (66%) or more of its value, the building or structure shall not be repaired or reconstructed except in conformity with this law.
- 8.14 Within 5 days after making a decision about the appeal, Council shall:
- a) give written notice of its decision to the appellant, and
 - b) post a notice of its decision in the Band office.
- 8.15 Any notice which Soowahlie is required to give may be served personally or sent by registered mail, provided that where the notice is sent by registered mail, it shall be deemed to be received by the addressee on the fifth day after it is mailed.

PART 9 – REGULATIONS

- 9.1 Council may make any regulations it considers necessary or advisable for purposes under this law.

- 9.2 For certainty, the powers of Council under subsection 9.1 include the power to make regulations:
- a) for any purpose in relation to which regulations are provided for in this law,
 - b) prescribing any matter or thing referred to in this law as prescribed or to be prescribed,
 - c) respecting the form, content, procedures and review criteria for applications, notices, and other documents that are required or permitted under this law,
 - d) setting fees,
 - e) defining words and expressions that are used but not defined in this law, and
 - f) generally, for the purpose of giving effect to this law.

PART 10 - OFFENCES, PENALTIES AND ENFORCEMENT

Penalties

- 10.1 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.
- 10.2 A fine payable under subsection 10.1 shall be remitted to the Soowahlie First Nation by the Court, after reasonable Court costs have been deducted.
- 10.3 Despite subsection 10.1, Soowahlie may also authorize the Lands Governance Director, 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

- 10.4 In addition to any other applicable fine, penalty or remedy, Council, the Lands Governance Director, 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 CP-holder or the Person who constructed or installed the structures, works or installations without proper authorization.
- 10.5 A Stop Work Order imposed under subsection 10.4 may be registered in court and enforced as a court order, and
- c) 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.

PART 11 - COMING INTO FORCE

Date Law Comes into Force

- 11.1 This Law shall come into force and effect on the date it is passed by Council Resolution after complying with the requirements of Part 3 of the Land Code.