

MATSQUI FIRST NATION DEVELOPMENT AND SERVICING LAW

WHEREAS:

- A. The Matsqui First Nation, also known as the Matsqui Indian Band, (the “Matsqui”), has an inherent right to self-government which emanates from its people, culture, language, and First Nation Land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;
- B. Matsqui, as an aspect of our inherent right of self-government, has the jurisdiction to address real property issues such as environmental matters, and this inherent right has not been extinguished;
- C. Matsqui also chose to assume control of its Indian reserve First Nation Lands pursuant to the *First Nation First Nation Lands Management Act*, S.C. 1999, c. 24 by entering into the *Individual Agreement on First Nation First Nation Land Management between Matsqui First Nation and Her Majesty the Queen in Right of Canada* and by adopting the Matsqui First Nation First Nation Land Code.
- D. Pursuant to section 6 of the Matsqui Land Code, the Governing Body can make laws with respect to development, conservation, protection, management, use and possession of First nation Land;
- E. It is essential to the health and survival of our First Nation that we maintain our community and existing First Nation Lands; and
- F. This Law will apply in conjunction with applicable federal and provincial laws concerning the environment, construction and building.

NOW THEREFORE Matsqui hereby enacts the following Law:

1.0 TITLE

- 1.1 This Law may be cited as the “Matsqui First Nation Development and Servicing Law”.

2.0 DEFINITIONS

- 2.1 Unless the context otherwise requires, defined terms have the same meaning as in the Matsqui Land Code. In this Law:

“British Columbia Building Code” means the current *British Columbia Building Code* and any amendments thereto;

“City” means the City of Abbotsford and Township of Langley;

“Council” means the elected Chief and Council of Matsqui;

“First Nation Land” means any portion of a Matsqui First Nation Indian reserve that is subject to the Matsqui Land Code;

“Governing Body” means the Governing Body of Matsqui established under clause 2.1 of Appendix K of the Matsqui First Nation Custom Election Regulations and Procedures;

“Lands Manager” means the Matsqui employee responsible for the administration of First Nation Land or his or her authorized representative(s), employees or contractors, or a Person authorized by the Governing Body to act as his or her delegate as set forth in the Matsqui Land Code;

“Matsqui” means the Matsqui First Nation;

“Matsqui Land Code” means the *Matsqui First Nation Land Code* dated for reference October 17, 2007 and brought into force February 26, 2009;

“MMCD” means Master Municipal Construction Documents as prepared by the Master Municipal Construction Documents Association;

“Occupier” means Person who occupies Reserve property but does not include the Occupier of a unit in an apartment, hotel or institution;

“Permit” means the written authority granted pursuant to this Law for the removal of soil from or the deposit of soil and other material upon First Nation Land within the City;

“Person” includes a natural Person, a company, corporation, partnership, firm, association, society, or party and the personal or other legal representatives of a Person to whom the context can apply according to law;

“Registered Professional” has the same definition as in the *British Columbia Building Code*;

“Supreme Court” means the Supreme Court of British Columbia; and

“Tree” means a living, erect, self supporting woody plant that is 5 metres or more in height or 10 centimetres in diameter or greater at 1.4 metres above the ground at the base of the tree.

3.0 PURPOSE

3.1 The purpose of this Law is to promote the safe and well-planned use of First Nation Lands through the implementation of appropriate building standards for structures placed on First Nation Lands.

4.0 SUBDIVISION, DEVELOPMENT AND SERVICING

Prohibited Activities without Authorization

- 4.1 None of the following are permitted within First Nation 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;
 - (d) installation of roads, sidewalks, sanitary sewer, water supply, storm water conveyance, power and other infrastructure or connection to existing roads or infrastructure for the purpose of new development;
 - (e) construction, alteration, enlargement, addition, demolition or removal of industrial, commercial or residential structures, including the installation, demolition or removal of swimming pools, fences and decks; and
 - (f) cutting, removal or alteration of any Tree.
- 4.2 Without limiting the generality of section 4.1, the following are prohibited:
- (a) subdivision or partitioning of one or more parcels of First Nation Land without subdivision approval by the Governing Body in accordance with this Law;
 - (b) stratification or other division of legal interests in First Nation Lands or structures into strata units, sub-leases or shares without approval by the Governing Body;
 - (c) construction or use of a street access or an exit driveway that is within 7.5 metres of the point of intersection of the road allowance lines of two streets or a street and a lane when such road allowance intersects at an angle of 135° or less; and
 - (d) carrying out any of the activities set out in paragraphs 4.1 (c), (d) or (e) without a Development Permit.
- 4.3 Despite sections 4.1 and 4.2, the following do not require approvals under this Law in and of themselves, unless they are to be constructed, carried out, or installed within 30 metres of a water body, or they involve the likely release of a polluting substance onto land or into a water body:

- (a) construction, alteration, enlargement, addition, demolition or removal of any structure the footprint of which is and remains less than 20 square metres;
- (b) construction or finishing of trails, driveways, or internal roads for single detached 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 metres or the removal or deposit of more than 10 cubic metres of soil, gravel or other material; and
- (d) installation of trailers and temporary structures provided such trailers and temporary structures have no hook-ups or connections to services and have been there for one month or less.

5.0 APPLICATIONS AND APPROVALS

5.1 Every applicant applying for an approval to carry out a project, development, activity or procedure set out in section 4.1 or 4.2 shall pay the prescribed fees and submit an application to the Lands Manager in the prescribed form that meets the following applicable requirements:

- (a) if it is a federally-funded project the General Engineering Requirements for Land Development on Indian Reserve Land in BC set by Aboriginal Affairs and Northern Development Canada ("AANDC");
- (b) If it is not a federally-funded project, or where there are not standards or requirements set by AANDC then the British Columbia Building Code (including a completed Schedule B forming part of Subsection 2.2.7, Division C of the British Columbia Building Code) or the Master Municipal Construction Documents (2009) ("MMCD") as amended or replaced, whichever standards are higher; and
- (c) any directions from Registered Professionals; and
- (d) Matsqui First Nation Environmental Assessment Law;

5.2 Applications shall be reviewed and processed in stages, generally in the following order, unless otherwise permitted by the Lands Manager:

- (a) Rezoning (if required under any applicable Matsqui zoning and land use law);
- (b) Subdivision;

- (c) Approval in Principle of Conceptual Plan;
- (d) Development Permit Approval;
- (e) Substantial Completion; and
- (f) Completion.

5.3 Applicants shall pay the prescribed fee, post any required bonds, and submit the prescribed application form for each relevant stage set out in section 5.2.

Concurrent Re-zoning applications

5.4 An applicant may apply for approvals under this Law concurrently with a re-zoning application under any applicable Matsqui zoning or land use 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.

Review by Land Manager and other Departments

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

- (a) Review the application along with all relevant information and documentation;
- (b) Circulate the application and all relevant information and documentation to internal Matsqui departments for comment;
- (c) For applications for subdivisions, multi-family structures, or significant increases in density, refer the application to the Matsqui First Nation members and all holders of interests in licences on First Nation Land; and
- (d) If appropriate, refer aspects of the application to the City of Abbotsford or Township of Langley.

5.6 The Lands Manager shall provide recommendations to the Governing Body about:

- (a) Whether the application should be approved; and

- (b) Suggested modifications, terms or conditions that should be set by the Governing Body.

Principles and Factors in Reviewing Applications

5.7 For each application, the Lands Manager shall consider the following general principles and factors:

- (a) The promotion of health, safety, convenience and welfare of Matsqui members and of residents and occupants and other persons who have a lawful interest in First Nation Land;
- (b) Well-planned and orderly development of First Nation Land and the preservation of amenities and special features of the First Nation Land;
- (c) Compliance with any applicable Matsqui land use plan, Matsqui zoning and land use law, other Matsqui Laws, and applicable federal, provincial, municipal laws and standards;
- (d) Environmental protection and enhancement;
- (e) Adherence to Matsqui housing policies;
- (f) Provision of community benefits including land and/or funds to Matsqui for the development of community amenities;
- (g) Protection and enhancement of cultural and heritage resources and sites;
- (h) Compatibility with Matsqui culture;
- (i) Protection or improvement of views, aesthetics and visual qualities;
- (j) Ensuring adequate parking, access and emergency access;
- (k) The character of the proposed activity or project in relation to the character of the zone, neighbourhood, and the buildings already erected;
- (l) The conservation of property values;
- (m) Potential impacts on adjacent uses, owners and occupants;
- (n) The development of the zone, neighbourhood and First Nation Lands in a manner that contributes to the economic, environmental, cultural and community health of Matsqui and its Members and the occupants of First Nation Land;

- (o) Information provided and approvals already granted by the Governing Body, including any terms or conditions, in relation to the same project or the same parcels of land; and
- (p) Any other factors that may affect the Matsqui community or First Nation Land.

Lands Manager May Request Additional Information

5.8 After reviewing the submitted application the Lands Manager may request additional information, plans, reports, or other relevant material from the applicant which the applicant shall provide.

Timelines

5.9 The Lands Manager shall as soon as practicable after having reviewed the application, or within ten (10) business days of having received the additional information requested under section 5.9, forward the application to the Governing Body along with:

- (a) Relevant documents, maps, plans, reports and other information;
- (b) Comments received from adjacent land-owners, interest-holders or Members;
- (c) Comments or recommendations from the Lands Manager and other Matsqui managers or departments; and
- (d) Comments from the City of Abbotsford, Township of Langley or other governments.

Governing Body Decisions

5.10 As soon as practicable after receiving the application and information set out in section 5.10, the Governing Body shall decide whether or not to approve the application and, without limiting the generality of the Governing Body's authority, the Governing Body 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 sections 5.7 and 5.8.

Notice of Completion

- 5.11 The Lands Manager shall not issue a Notice of Completion until:
- (a) The Lands Manager has received final as-constructed drawings and plans in digital form and to MMCD standards;
 - (b) Each Registered Professional of record for the project has completed Schedule C-B forming part of subsection 2.2.7, Division C of the British Columbia Building Code;
 - (c) Water and sanitary sewer connection permits have been issued;
 - (d) The proponent and Registered Professional has certified that any conditions of the Development Permit have been compiled with; and
 - (e) The applicant has fulfilled all other reasonable requirements of the Governing Body.

6.0 ADMINISTRATION AND ENFORCEMENT

Inspection Power

- 6.1 The Lands Manager and any Matsqui contractor or employee acting under his or her authority may, at all reasonable times, enter upon any property for the purpose of administering and enforcing this Law. No person shall prevent or obstruct, or attempt to prevent or obstruct, the entry of any authorized official upon any property as authorized under this Law.

Enforcement and Stop Work Orders

- 6.2 In addition to any other applicable fine, penalty or remedy, the Governing Body or the Lands Manager may at any time:
- (a) Issue a Stop Work Order to cease carrying out any activity, use or construction listed under section 4.1 or 4.2 or any related activity, use or construction;
 - (b) Order any structures, works or installations constructed in violation of this Law to be removed within thirty (30) days, failing which the Governing Body may order them to be removed or may have them removed at the expense of the person who is an interest or licence holder on the First Nation Land or the Person who constructed or installed the structures, works or installations without proper authorization;
 - (c) Seize and detain any timber, any product manufactured from timber, or any other natural resource when the Governing Body or Lands Manager has reasonable grounds to believe the material was not obtained in accordance with the terms of

this Law or its Schedules or the terms of any authorizations under this Law or its Schedules.

6.3 A Stop Work Order imposed under section 6.2:

- (a) May be registered in Court and enforced as a court order; and
- (b) 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.

6.4 If materials are seized under section 6.2:

- (a) They may be removed to a place that is appropriate for their protection and, if in the care of a carrier at the time of seizure, the carrier may be directed to move the materials to the place so designated;
- (b) The costs of transportation and other charges incurred in the event of a seizure will be included in the costs of seizure and are chargeable to a party found in breach of this Law; and
- (c) Seizure shall not prejudice or affect any lien to which a Person may be entitled in respect of the materials to the time of such seizure.

Supreme Court Order for Compliance

6.5 If Matsqui considers that any Person or organization is not complying or has not complied with the order made under this Law, Matsqui may apply to the Supreme Court for either or both of the following:

- (a) an order directing the Person or organization to comply with the order or restraining the Person or organization from violating the order; and/or
- (b) an order directing the directors and officers of the Person or organization to cause the Person or organization to comply with or to cease violating the order.

6.6 On application by Matsqui under this section, the Supreme Court may make an order it considers appropriate.

Penalties

6.7 A Person who contravenes this Law, the terms or conditions of any authorization issued under 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 daily and accruing daily until rectified or to imprisonment for a term of not more than three months, or to both.

6.8 A fine payable under subsection 6.7 shall be remitted to Matsqui by the Supreme Court, after reasonable Court costs have been deducted.

7.0 APPLICATION OF LAW

7.1 Where any federal Act or regulation or provincial Act or regulation or any other Matsqui Law 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 the other applicable Act, regulation or law.

7.2 If any section of this Law is for any reason held invalid by a decision of a court of competent jurisdiction, the invalid section or subsection will be severed from and not affect the remaining provisions of this Law.

7.3 The headings given to the sections and paragraphs in this Law are for convenience of reference only. They do not form part of this Law and will not be used in the interpretation of this Law.

7.4 Unless otherwise noted, any specific statute named in this Law is a reference to an enactment of British Columbia and the regulations thereto, as amended, revised, consolidated or replaced from time to time, and any Law referred to herein is a reference to a law of Matsqui, as amended, revised, consolidated or replaced from time to time.

8.0 AMENDING PROCEDURES

Substantive Amendments

8.1 Substantive amendments to this Law may only be made in accordance with Part 2 of the Matsqui Land Code.

Minor Amendments

8.2 Despite section 8.1 of this Law, the Governing Body may adopt minor amendments to this Law if approved in writing by a quorum of the Governing Body.

8.3 For the purposes of section 8.2, minor amendments include:

- (a) Amendments to correct typographical errors;

- (b) Amendments required to reference any relevant new or amended Matsqui Laws;
- (c) Amendments ordered by any court of competent jurisdiction; and
- (d) Amendments which serve to clarify the Law, where there is no reasonable dispute about the intention underlying the original provision.

9.0 COMING INTO FORCE

Date Law Comes into Force

9.1 This Law shall come into force and effect on the date it is enacted by pursuant to section 7.10 of the Matsqui Land Code.

THIS LAW IS HEREBY ENACTED BY THE approval of a quorum of the Governing Body on the ____ day of _____, 2014

Voting in favour of the law are the following members of Council:

Chief Alice McKay

Councillor Louis Julian

Councillor Brenda Morgan

Voting in favour of the law are the following Family Representatives:

Family Representative

Family Representative

Family Representative

Family Representative

Family Representative

Family Representative