

LEQ'Á:MEL FIRST NATION
Subdivision Law

2017

TABLE OF CONTENTS

PREAMBLE

- 1. NAME**
 - 2. PURPOSE**
 - 3. WHERE THIS LAW APPLIES**
 - 4. DEFINITIONS**
 - 5. GENERAL PROVISIONS**
 - 6. REQUIREMENTS FOR ALL ACTIVITIES & DEVELOPMENT**
 - 7. SUBDIVISION, DEVELOPMENT & SERVICING**
 - 8. EXEMPTIONS FROM PERMIT REQUIREMENTS**
 - 9. APPLICATIONS FOR PERMITS**
 - 10. REVIEW OF APPLICATIONS FOR PERMITS BY THE FAMILY ADVISORY COMMITTEE**
 - 11. NON-CONFORMING USES**
 - 12. REGULATIONS**
 - 13. OFFENCES, PENALTIES & ENFORCEMENT**
 - 14. STOP WORK ORDERS & OTHER REMEDIES**
 - 15. EFFECTIVE DATE**
-

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 Leq’á:mel 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*,

Leq’á:mel First Nation has taken over control and management of Leq’á:mel Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Leq’á:mel Land Code*, and

under the *Leq’á:mel Land Code*, Leq’á:mel Council is authorized to pass various laws relating to lands, environment and natural resources

NOW THEREFORE this *Leq’á:mel Subdivision Law* is hereby enacted as a Law of the Leq’á:mel First Nation.

PART 1 – NAME

1.1 This Law may be cited as the *Leq'á:mel Subdivision Law*.

PART 2 – PURPOSE

2.1 The purpose of this law is to promote environmentally sustainable, healthy, safe, convenient and well planned use of Leq'á:mel Lands.

PART 3 - WHERE THIS LAW APPLIES

3.1 The provisions of this law apply to the whole area of the Reserve and Leq'á:mel Lands as defined in the Leq'á:mel Land Code.

PART 4 – DEFINITIONS

4.1 Terms used in this law and the *Leq'á:mel Land Code* have the same definitions as in the *Leq'á:mel Land Code*.

4.2 In this law:

“Enforcement Officer” means a person authorized to enforce this law appointed by Council Resolution or regulation under this law or the Leq'á:mel Enforcement and Ticketing Law;

“Permit” means a written permit issued by the Leq'á:mel Lands Office in a form prescribed or approved by Council for the purposes of this law; and

“Stop Work Order” means an order issued under this law regarding work undertaken without authorization or in violation of this law

PART 5 - GENERAL PROVISIONS

5.1 A reference to a law, regulation, or code is a reference to that law, regulation, or code as amended from time to time.

5.2 The headings in this law have been inserted for convenience and for reference only and in no way define or limit any of its provisions.

5.3 Any reference to a number of days in this law shall be counted as business days during which the Leq'á:mel Lands Office is open.

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

PART 6 – REQUIREMENTS FOR ALL ACTIVITIES & DEVELOPMENT

6.1 Whether or not a Permit is required or issued, a person carrying out activities and development described in this law must comply with Leq'á:mel laws, as well as applicable federal and British Columbia laws, including the BC Building Code.

6.2 Whether or not a Permit is required or issued, a person carrying out activities and development described in this law must notify agencies responsible for safety of underground public utilities prior to undertaking work currently known as “BC One Call” or “BC One Click”.

PART 7 - SUBDIVISION, DEVELOPMENT & SERVICING

7.1 Subject to the provisions of this law for activities and developments which are expressly exempted from requiring a permit and the provisions of this law authorizing any non-conforming use, none of the following are permitted within Leq'á:mel Lands except in accordance with a Permit issued by the Leq'á:mel Lands Office:

- (a) subdivision or partitioning of one or more parcels of Leq'á:mel 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) development of any kind,
- (d) construction of a street, driveway, laneway or intersection,
- (e) installation of roads, intersections, rip-rapping, erosion control, dyking, sewer, water, and other infrastructure,
- (f) construction, alteration, renovation, enlargement, addition, demolition or removal of industrial, commercial, residential or accessory structures, including the installation, demolition or removal of signs, swimming pools and decks,
- (g) anything that puts structures or people at risk within a flood plain or increases flood risks,
- (h) anything that takes place in or within 30m of a water body or fish habitat,
- (i) 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,
- (j) storage of blasting materials, explosives, chemicals, or more than 500 litres of fuel or hazardous materials,
- (k) cutting, removal or alteration of any tree, and
- (l) removal of natural resources, including sand, clay, gravel, soil and minerals.

PART 8 – EXEMPTIONS FROM PERMIT REQUIREMENTS

8.1 The following activities do not require a Permit:

- (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, 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 landscaping, and construction or finishing of trails, driveways, or internal roads 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,

- (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 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) measures to respond to an emergency such as dyking, erosion control, and flood protection, and
- (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, if such trailers and temporary structures, do not have foundations, hook-ups or connections to services and are not used for residential accommodation.

PART 9 - APPLICATIONS FOR PERMITS

9.1 Every applicant, including developers and contractors, applying for a Permit from the Leq'á:mel Lands Office shall submit an initial application to the Leq'á:mel Lands Office in the prescribed form together with any prescribed application fees.

9.2 Applications for Permits from the Leq'á:mel Lands Office must meet the following requirements as specified by the Leq'á:mel Lands Office:

- (a) general engineering requirements for land development on Leq'á:mel Lands,
- (b) general requirements for environmental assessments on Leq'á:mel Lands,
- (c) requirements of the Sto:lo Heritage Policy Manual or any successor Leq'á:mel heritage law or policy,
- (d) the Leq'á:mel Lands Office subdivision and development application and checklist,
- (e) the BC Building Code and the BC Energy Step Code, and
- (f) approvals and directions from certified professionals as may be required by the Leq'á:mel Lands Office.

9.3 Applications for Permits shall be reviewed and processed by the Leq'á:mel Lands Office in accordance with each stage of development policies and procedures established by Council which describe matters such as rezoning applications, subdivision approvals and completion requirements.

9.4 Applicants shall pay to the Leq'á:mel Lands Office any prescribed fees, post any required bonds, and submit the prescribed forms to the Leq'á:mel Lands Office at the beginning of each stage of the process described in Leq'á:mel development policies and procedures.

9.5 An applicant may apply for approvals under this law concurrently with a re-zoning application under Leq'á:mel law. In the case of concurrent applications:

- (a) all application 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.

9.6 The requirements of the Sto:lo Heritage Policy Manual or any successor Leq'á:mel heritage law or policy do not apply to:

- (a) construction of single family homes for Leq'á:mel Members, and

(b) development on a previously disturbed site with no known heritage or archaeological sites unless otherwise required by regulation or by a Council Resolution.

9.7 As soon as practicable after receiving the prescribed fees and a complete application for a Permit, the Leq'á:mel Lands Office shall:

- (a) refer the application to a meeting of the Family Advisory Committee along with all relevant information and documentation;
- (b) circulate the application and all relevant information and documentation within the Leq'á:mel administration for comment;
- (c) for applications for subdivisions, multi-family structures, or significant increases in density, post a sign describing the project on the parcel of land and refer the application to all adjacent certificate of possession holders on Leq'á:mel Lands; and
- (d) decide at their sole discretion whether to also refer technical or engineering aspects of the application to any other First Nation or municipal government for any non-binding recommendations that may assist the Leq'á:mel Lands Office.

PART 10 - REVIEW OF APPLICATIONS FOR PERMITS BY THE FAMILY ADVISORY COMMITTEE

10.1 The Family Advisory Committee shall review each application for a Permit and shall recommend to Council whether:

- (a) the application should be approved or rejected;
- (b) modifications should be considered; and
- (c) any terms or conditions should be considered in any Permit.

10.2 For each application, the Family Advisory Committee may consider the following general principles and factors:

- (a) the promotion of health, safety, convenience and welfare of Leq'á:mel members and of residents and occupants and other persons who have a lawful interest in Leq'á:mel Lands,
- (b) well planned and orderly development of Leq'á:mel Lands and the preservation of amenities and special features of Leq'á:mel Lands,
- (c) compliance with the Leq'á:mel Land Use Plan and Leq'á:mel 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 Leq'á:mel housing policies,
- (h) provision of community benefits including land and/or funds to Leq'á:mel for the development of community amenities,

- (i) protection and enhancement of cultural and heritage sites,
- (j) compatibility with Leq'á:mel and Stó:lō culture,
- (k) viewsapes, 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 Leq'á:mel and Leq'á:mel members and the occupants of Leq'á:mel 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 Leq'á:mel Lands.

10.3 In making recommendations to Council, the Family Advisory Committee may include recommendations relating any of the general principle and factors they may consider, including those set out in subsection 10.2, as well as recommendations relating to:

- (a) posting bonds or requiring irrevocable letters of credit and, if so, in what percentage or what amount,
- (b) 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,
- (c) 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 matter considered by the Family Advisory Committee in accordance with this law.

10.4 After reviewing the recommendations from the Family Advisory Committee and any comments from neighbouring residents, Leq'á:mel administration, and other relevant sources, the Leq'á:mel Lands Office may request further information, plans, reports, or other relevant material from the applicant which the applicant shall provide.

10.5 The Leq'á:mel Lands Office shall, as soon as practicable after obtaining input as required under this law, forward the application to Council along with:

- (a) all relevant documents, maps, plans, reports and other information,
- (b) recommendations from the Family Advisory Committee,
- (c) any comments received from neighbouring residents or Leq'á:mel Members,
- (d) any comments or recommendations from the Lands Governance Director and Leq'á:mel administration, and
- (e) any comments from municipal or regional district governments.

PART 11 – DECISIONS REGARDING PERMITS

11.1 As soon as practicable after receiving the application and information from the Leq'á:mel Lands Office under Part 10, Council shall decide whether or not to approve the application and, without limiting the generality of Council's authority, Council may:

- (a) approve the application on terms or conditions to be set out in any permit,
- (b) reject the application; or
- (c) refer the application back to the Leq'á:mel Lands Office for further input, review or analysis.

11.2 Council may issue any type of permit or authorization that is appropriate under this law or that is set out in a regulation under this law, including, but not limited to:

- (a) development permits,
- (b) building permits,
- (c) servicing or connection permits,

- (d) road permits,
- (e) soil removal or deposit permits,
- (f) blasting permits,
- (g) road permits, and
- (h) tree cutting permits.

PART 11 - NON-CONFORMING USES

11.1 Subject to all requirements in respect of non-conforming uses in this law, the lawful carrying on of any activity, use, business or trade that was lawfully in place at the time of the passage of this law may be conditionally continued as a non-conforming use without a Permit from the Leq'á:mel Lands Office Leq'á:mel Lands Office.

11.2 A lawful non-conforming use does not include the right to continued use or display of any signs in place at the time of the passage of this law

11.3 In the event that a non-conforming use is discontinued for a period of six months or longer, the non-conforming use shall not be resumed except in compliance with the provisions of this law.

11.4 A building or structure which is non-conforming and sustains damage to seventy five percent (75%) or more of its value cannot be repaired or replaced except in compliance with this law.

11.5 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 Leq'á:mel and:

- (a) the Leq'á:mel Lands Office 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 seventy five percent (75%) or more of its value, the Leq'á:mel Lands Office shall report the initial determination to Council for review.

11.6 After having reviewed the determination of the Leq'á:mel Lands Office, 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.

11.7 The notice to the person lawfully in possession of the building or structure 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 seventy five percent (75%) 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 receipt of the notice by sending a Notice of Appeal to Council.

11.8 The Notice of Appeal regarding a building or structure 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.

11.9 Within 20 days of receipt of a Notice of Appeal regarding a building or structure, Council shall hold a public meeting or Special Membership Meeting, as appropriate, respecting the appeal.

11.10 Council shall give at least 7 days' notice in writing of the meeting to:

- (a) the appellant,
- (b) those persons lawfully in possession of any lands adjacent to the land on which the building structure is situated and any other person who, in the opinion of Council, may be affected by the decision, and
- (c) any other person or persons specified by Council.

11.11 The Leq'á:mel Lands Office 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.

11.12 At the 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 Leq'á:mel Lands Office,
- (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.

11.13 Within 15 days after the meeting, Council shall make a decision about the appeal by confirming, rejecting or varying the determination made by the Leq'á:mel Lands Office, or a qualified professional regarding the extent of the damage to the building or structure.

11.14 If Council confirms that the building or structure has been damaged to the extent of seventy five percent (75%) or more of its value, the building or structure shall not be repaired or reconstructed except in conformity with this law.

11.15 Within 5 days after making a decision about the appeal, Council shall:

- (a) Provide written notice of its decision to the appellant, and
- (b) post a notice of its decision in the Band office.

11.16 Any notice which Leq'á:mel is required to give in relation to an appeal 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 12 - REGULATIONS

12.1 Council may make regulations it considers necessary or advisable for purposes under this law, including regulations:

- (a) appointing persons as Enforcement Officers under this law,
- (b) delegating the Lands Office or the Lands Manager to carry out specific responsibilities under this law including the granting of minor permits,
- (c) prescribing any forms or applications under this law, and
- (d) prescribing any fees or charges under this law.

PART 13 - OFFENCES, PENALTIES & ENFORCEMENT

13.1 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.

13.2 A fine payable under this law shall be remitted to the Leq'á:mel First Nation by the Court, after deducting reasonable court costs.

13.3 Despite subsection 13.1, Council may also authorize the Leq'á:mel Lands Office or an Enforcement Officer to issue a ticket or violation notice to impose a sanction or fine for contraventions of this law.

PART 14 – STOP WORK ORDERS & OTHER REMEDIES

14.1 In addition to any other applicable fine, penalty or remedy under this law, Council, the Leq'á:mel Lands Office, or an Enforcement Officer may:

- a) issue a Stop Work Order to any Person who has not received full and proper authorization under this law, to order that Person cease carrying out any unauthorized activity or use; and
- b) order any structures, works or installations carried out in violation of this law be removed within 30 days, failing which Council may order them to be removed, or order any necessary remedial or restorative work to be carried out at the expense of the certificate of possession holder, interest-holder, occupant or person responsible for the lands, buildings or structures.

14.2 A Stop Work Order imposed under this section:

- (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.

14.3 Representatives of the Leq'á:mel Lands Office or an Enforcement Officer may:

- a) enter on lands or into buildings or structures which are the subject of an activity or development to which this law applies or any area to which a Permit applies to inspect for compliance with this law and a Permit;
- b) inspect records maintained by the Permit holder; and
- c) direct or require that the Permit applicant or holder take measures or meet conditions to ensure compliance with this law including terms and conditions to prevent injury, harm, nuisance, or damage to persons, property, or the environment.

14.4 If a Permit holder fails to comply with this law or any requirement or condition of any Permit, the Leq'á:mel Lands Office may, by written notice to the Permit holder, immediately revoke the Permit.

14.5 Notice to the Permit holder is sufficient if a letter is mailed or delivered to the address of the Permit holder as shown on the Permit, and if mailed, is deemed to have been received within one business day.

PART 15 - EFFECTIVE DATE

15.1 This law shall come into force and effect on the date specified in the resolution of Council enacting this law.

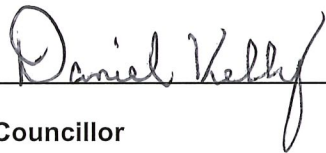
BE IT KNOWN that this law entitled *Leq'á:mel Subdivision Law* is hereby enacted by a quorum of Council at a duly convened Council of the Leq'á:mel First Nation held on September 28, 2018.



Chief



Councillor



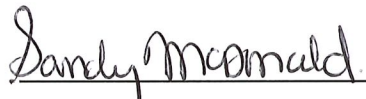
Councillor



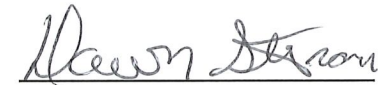
Councillor



Councillor



Councillor



Councillor

A quorum consists of 4 Council Members