

YÁLH Ó A EY SLEWÓYELH

**Shxw'ówhámél First Nation
Development Law, 2019**

(a law to specify the procedures for development of 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 *Sx̓ex̓ó:mes*, including our lands and resources, which is expressed in our *Sx̓w̓ōx̓wiyá:m*, *Sq̓wélq̓wel* and *Shx̓welí*, 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 and development thereof; and
- H. Si:yá:m Council is authorized under section 6.1(a) of our Land Code to pass laws for the development, conservation, protection, management, regulation, zoning, occupation, use and possession of Shxw'ōwhámél Lands,

NOW THEREFORE BE IT RESOLVED THAT this *yálh ó a ey Slewóyelh*, the *Shxw'ōwhámél First Nation Development Law, 2019*, (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 Development Law*.

PART 2 – PURPOSE AND APPLICATION

- 2.1 Purpose. The purpose of this Law is to standardize the procedures for developing Shxw'ōwhámél Lands in a manner that is consistent with the Land Code, the Zoning Law, the Land Use Plan and other applicable Shxw'ōwhámél laws.
- 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. From time to time, the Lands Department may contract with enforcement services to enforce this Law. The Lands Department may also, 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:
- “Construction”** has the meaning provided to that term in Schedule “C”;
- “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 24, 2018;
- “Development”** means any new or expanded development of any Shxw'ōwhámél Lands, including a subdivision, excavation and grading, and/or construction of buildings;
- “Density”** has the meaning provided to that term in the Zoning Law;
- “Enforcement Officer”** has the meaning provided to that term in the *Shxw'ōwhámél Enforcement Law*;
- “Land Use Plan”** means the Shxw'ōwhámél Land Use Plan attached as Schedule “C”;
- “Land Use Plan Amendment”** means an amendment to the Land Use Plan that is required when a Development requires a change to the Land Use Plan in order to be compliant with that plan and Shxw'ōwhámél's vision of the community;
- “Lands Department”** means the Lands Department of Shxw'ōwhámél;
- “Lands Manager”** means the person appointed by Council to oversee the administration of Shxw'ōwhámél Lands, the Land Code and related laws and policies of Shxw'ōwhámél, including this Law;
- “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;
- “Plans”** has the meaning provided to that term in Schedule “C”;

“Proponent” means the Person proposing a Development on a parcel of Shxw’ōwhámél Land, including landowners, landowner representatives, lessees, sub-lessees and Shxw’ōwhámél, as applicable;

“Public Place” includes, but is not limited to, any highway, street, park or other real property owned, held, administered or managed 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”;

“Shxw’ōwhámél” or **“SFN”** means Shxw’ōwhámél First Nation;

“Site Plan Package” means a Site Plan Package (Small Development) and/or a Site Plan Package (Large Development), as applicable in the context;

“Site Plan Package (Small Development)” means the application package submitted by the Proponent for review by the Lands Department for developments that are less than 3 acres of land or 3 lots/residential units for residential development (i.e. building a house) or for commercial and institutional use consisting of less than 250 square metres of floor space (2150 sq. ft.) for commercial and institutional development, which package includes:

- a) current land use for the subject land, as identified on the relevant Land Use Plan map;
- b) land use type in the Land Use Plan that best describes the proposed Development;
- c) a description of the proposed Development;
- d) proof of insurance acceptable to the Lands Department;
- e) scaled professional drawings that depict the locations of existing and proposed buildings in relation to property lines, adjacent buildings, utilities and existing rights of way;
- f) survey documentation;
- g) description of proposed sewage disposal method, and if an individual septic field is proposed, proof that the lot can accommodate a replacement field in the future;
- h) for lots not connected to the community water system, proof of potable water (drinking water) on the lot; and
- i) description of any areas of archeological and cultural significance and protection measures proposed to be used to avoid impacts thereto;

“Site Plan Package (Large Development)” means the application package submitted by the Proponent for review by the Lands Department for Developments that consist of more than 3 acres of land or 3 lots/residential units or for commercial or institutional use consisting of more than 250 square metres floor space (2150 sq. ft.), which package includes:

- a) current land use for the subject land, as identified on the relevant Land Use Plan map;
- b) land use type in the Land Use Plan that best describes the proposed Development;
- c) a description of the proposed Development;
- d) proof of insurance acceptable to the Lands Department;
- e) scaled professional drawings that depict the locations of existing and proposed buildings in relation to property lines, adjacent buildings, utilities and existing rights of way;
- f) landscape drawings that illustrate the location of trees and vegetation and type of ground cover (i.e. grass);
- g) survey documentation;
- h) description of proposed sewage disposal method, and if an individual septic field is proposed, proof that the lot can accommodate a replacement field in the future;
- i) for lots not connected to the community water system, proof of potable water (drinking water) on the lot;
- j) conceptual drawings illustrating the Development;
- k) guarantee of funding/financing to complete the construction;
- l) description of all potential impacts to the Shxw'ōwhámél economy, environment, culture and community, and the consultation and accommodation measures that will be undertaken as agreed to with Shxw'ōwhámél pursuant to a project or impact benefit agreement with Shxw'ōwhámél;
- m) description of any areas of archeological and/or cultural significance, and/or environmental sensitive areas, and protection measures proposed to be used to avoid impacts thereto, along with proposed remediation measures; and
- n) for commercial and industrial development, a business plan summarizing who will be operating the business, how many people will be employed, opportunities for Members to be employed, and typical operating characteristics;

"Zoning Amendment" means an amendment that is required when a proposed Development requires a change to the permitted land use or Density under the Zoning Law;

"Zoning Law" means the *Shxw'ōwhámél Zoning Law*;

"Zoning Variance" means the variance that is required when a proposed Development (i) is not compliant with the size, dimensions, height, or siting of buildings or structures

required under the Zoning Law and (ii) will or may result in a change of less than 10% of the applicable measurement under the Zoning Law. For greater certainty, a Zoning Variance should not be used to accommodate a change in land use.

3.3 General Interpretation.

- (a) Our *Stewóyelh*, 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'ówhámél, 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 Schedules forms part of and are integral to this Law:

- (a) Schedule "A" – Site Plan Package Review Checklist
- (b) Schedule "B" – Prescribed Application Forms
- (c) Schedule "C" – Sample of Permit
- (d) Schedule "D" – Land Use Plan

PART 4 – GENERAL PROCEDURES

- 4.1 Submission of Site Plan Package. Prior to commencing any development activities on any proposed Development, the Proponent must submit to the Lands Department a Site Plan Package (Small Development) or a Site Plan Package (Large Development), depending on the scope of the proposed Development.
- 4.2 Review of Site Plan Package. On receipt of a Site Plan Package in accordance with section 4.1, the following procedure will be followed:
 - (a) the Lands Department will review the Site Plan Package and description of development using the Site Plan Package Review Checklist (attached in Schedule "A") to ensure that it complies with the Land Use Plan, Zoning Law and this Law;

- (b) if the proposed Development adheres to the Land Use Plan, Zoning Law and this Law, then the Lands Department will provide its written approval of the proposed Development to the Proponent;
- (c) if any elements of the Site Plan Package do not comply with the Land Use Plan, Zoning Law and/or this Law, then the Lands Department may require amendments and/or variances in accordance with Part 5 and Part 6; and
- (d) once the Lands Department approves a proposed Development, it will submit the completed and signed Site Plan Package Review Checklist to Council for information purposes.

PART 5 – NON-CONFORMANCES WITH LAND USE PLAN

- 5.1 Notice of Non-Conformance. If the Site Plan Package does not conform to the land use described in the Land Use Plan for the subject site, the Lands Department will inform the Proponent of such non-compliance.
- 5.2 Options on Non-Conformance. On receipt of a notice of non-compliance pursuant to section 5.1, the Proponent may pursue either of the following options:
- (a) revise the Site Plan Package to comply with the Land Use Plan; or
 - (b) seek an amendment to the type of land use described for the subject lot in the Land Use Plan.
- 5.3 Land Use Plan Amendment Process.
- (a) A Land Use Plan Amendment is required if the proposed Development requires a change in land use in order to comply with the Land Use Plan.
 - (b) If a Proponent chooses to seek a Land Use Plan Amendment, the following process must be followed:
 - (i) the Proponent will submit the prescribed application fee;
 - (ii) the Site Plan Package will be reviewed by the Lands Department to determine if it is advisable to consider an amendment;
 - (iii) if the Lands Department does not consider it advisable to proceed with the amendment process, the Proponent will be offered the opportunity to revise its Site Plan Package for reconsideration;
 - (iv) if the Lands Department considers it advisable to proceed with an amendment, then the Lands Department will complete the prescribed Land Use Plan Amendment Application Form, which form will outline the proposed amendment of the land use and the requirements that the Proponent must fulfill to obtain the amendment;
 - (v) the Lands Department will review the completed Land Use Plan Amendment Application Form with the Proponent to inform them of any

- substantial planning requirements to obtain the amendment (including work such as traffic studies, noise studies, environmental studies, etc.) and to determine if they want to proceed with such process;
- (vi) if the Proponent remains interested in proceeding with the Land Use Plan Amendment, the Lands Department will present the completed application form to the Lands Advisory Council, and, after its review of such form and accompanying materials, the Lands Advisory Council will:
 - (A) approve the application subject to such requirements included in the application form by the Lands department;
 - (B) approve the application subject to amended requirements; or
 - (C) deny the application;
 - (vii) if the Lands Advisory Council approves the application, or the Lands Advisory Council amends the requirements imposed on the Proponent and the Proponent agrees to such amendments, the Proponent will diligently work to meet the applicable requirements attached to the application;
 - (viii) on receipt of the requisite information, data, reports and/or studies from the Proponent, the Lands Department will review such materials, and may retain others to assist in the review of such materials;
 - (ix) as part of the review of a Land Use Plan Amendment application, the Lands Department will initiate engagement with Members on the proposed amendment, which engagement will depend on the scale, nature and location of the proposed Development, and may include any one or more of the following:
 - (A) in-home discussions with each of the surrounding neighbours to determine if they are supportive of the proposed Development;
 - (B) placement of a sign on the subject lands briefly describing the proposed amendment, which sign will be of sufficient size and construction to ensure visibility, and will include the following information:
 - (1) map illustrating the boundaries of the land that the amendment applies to;
 - (2) identification of the existing and proposed land use type; and
 - (3) instructions for providing feedback on the proposed Development to the Lands Department, along with deadline for providing comments;
 - (C) written notification mailed to surrounding residents indicating the proposed amendment process and providing the map and other information listed under subparagraph 5.3(b)(ix)(B); and

- (D) an open house, open to the entire community and hosted by the Developer, to learn more about the proposed amendment and to provide Members with the opportunity to provide feedback;
- (x) if the materials provided by the Proponent do not fulfill the requirements set by the Land Department and/or the Lands Advisory Council, the Proponent will be given an opportunity to revise and re-submit the application and corresponding materials;
- (xi) if the materials provided by the Proponent fulfill the requirements set by the Land Department and/or the Lands Advisory Council, the Land Department will prepare a report outlining its recommendation on the Land Use Plan Amendment application, along with a written summary of comments provided by Members, if any, and provide such report to Council;
- (xii) Council will review the Land Department's report on the Land Use Plan Amendment application, and:
 - (A) if Council votes in support of the Land Use Plan Amendment application, a Band Council Resolution will be prepared approving the amendment to the Land Use Plan; or
 - (B) if Council does not approve the Land Use Plan Amendment application, the Proponent will be provided an opportunity to revise its application and resubmit it for re-consideration; and
- (xiii) a decision made by Council pursuant to paragraph 5.3(b)(xii) is final.

PART 6 – NON-CONFORMANCE WITH ZONING LAW

- 6.1 Notice of Non-Conformance. If the Site Plan Package does not conform to the Zoning Law, the Lands Department will inform the Proponent of such non-compliance(s), and process outlined in this Part 6 will be followed.
- 6.2 Options on Non-Conformance. On receipt of a notice of non-compliance pursuant to section 6.1, the Proponent may pursue either of the following options:
 - (a) the Proponent can revise its Site Plan Package to conform with the Zoning Law, and resubmit the revised package for another review; or
 - (b) the Proponent can request a Zoning Amendment or a Zoning Variance, in accordance with sections 6.3 or 6.4, respectively.
- 6.3 Zoning Amendment Process. If a Zoning Amendment is requested, the following process will be followed to apply for an obtain approval for the proposed amendment:
 - (a) the Proponent will submit the prescribed application fee;
 - (b) the Site Plan Package will be reviewed by the Lands Department to determine if it is advisable to consider an amendment process;

- (c) if the Lands Department does not consider it advisable to proceed with the amendment process, the Proponent will be offered the opportunity to revise its Site Plan Package for reconsideration;
- (d) if the Lands Department considers it advisable to proceed with the amendment process, the Lands Department will complete the prescribed Zoning Amendment Application Form, which form will describe the requirements that the Proponent must fulfill for the Zoning Amendment to be approved;
- (e) the Band Administrator will review the Zoning Amendment Application Form to confirm if any further planning or engineering work is required and informing the Lands Department thereof;
- (f) following receipt of confirmation from the Band Administrator, the Lands Department will review the Zoning Amendment Application Form with the Proponent to inform it of any substantial planning or engineering work that may be required in order to obtain the Zoning Amendment and to determine if the Proponent wants to proceed with the process;
- (g) if the Proponent decides to proceed, then the Lands Department will present the completed Zoning Amendment Application Form to the Lands Advisory Council for review;
- (h) following its review, the Lands Advisory Council will decide to:
 - (i) approve the application subject to such requirements included in the Zoning Amendment Application Form by the Lands Department;
 - (ii) approve the application subject to amended requirements; or
 - (iii) deny the Zoning Amendment application;
- (i) if the Lands Advisory Council approves the Zoning Amendment application, then the Proponent will diligently proceed with fulfilling the requirements attached to the Zoning Amendment Application Form (either by the Lands Department, or as amended by the Lands Advisory Council), and submit any necessary materials to the Lands Department;
- (j) on receipt of materials from the Proponent pursuant to subsection 6.3(i), the Lands Department will review such materials and will either:
 - (i) accept the materials submitted; or
 - (ii) direct the Proponent to revise or supplement the materials as required by the Lands Department;
- (k) when the Lands Department is satisfied that the materials submitted by the Proponent are sufficient to meet the specified requirements, the Lands Department will carry out community engagement on the proposed Zoning Amendment, which engagement may include one or more of the approaches outlined in paragraph 5.3(b)(ix);

- (l) the Lands Department will prepare a report to Council with a recommendation on the proposed Zoning Amendment, which report will include a summary of feedback received during the engagement with Members;
- (m) Council will review the report on the proposed Zoning Amendment, and:
 - (i) if Council votes to support the proposal, a Band Council Resolution will be prepared noting the approved Zoning Amendment to the Zoning Law; or
 - (ii) if Council does not support the proposal, the Proponent will be provided an opportunity to revise its Zoning Amendment application and resubmit it for consideration; and
- (n) a decision made by Council pursuant to subsection 6.3(m) is final.

6.4 Zoning Variance Process. If a Zoning Variance is required, the following steps will be followed:

- (a) the Proponent will submit an application for a Zoning Variance, including the prescribed application fee;
- (b) a prescribed Zoning Variance Application Form will be filled out by the Lands Department, detailing the reason for the proposed Zoning Variance and a recommendation on whether or not to approve the variance;
- (c) the Zoning Variance Application Form will be reviewed by the Band Administrator;
- (d) adjacent residents, if any, will be given an opportunity to provide input on the Zoning Variance; and
- (e) Council will review the Zoning Variance and vote on whether to support or deny the Zoning Variance application. If approved, a Band Council Resolution will be prepared confirming acceptance of the Zoning Variance. A decision made by Council pursuant to this subsection 6.4(e) is final.

6.5 Prohibited Variances. Notwithstanding the Zoning Variance process set out in section 6.4, no Zoning Variance will be approved for any of the following:

- (a) where the Proponent cannot demonstrate that it would be a hardship not to grant a Zoning Variance;
- (b) where the Zoning Variance would vary the absolute minimum setbacks set out in the Zoning Law;
- (c) where the Zoning Variance would compromise fire safety;
- (d) where the Zoning Variance would adversely affect the natural environment in a significant manner;
- (e) where the Zoning Variance would create or contribute to significant new geotechnical risks;

- (f) where the Zoning Variance would create or contribute to significant new flood or flooding risks;
- (g) where the Zoning Variance would cause a major inconvenience to neighbours or impede the use and safety of public recreation facilities; and/or
- (h) where the Zoning Variance would compromise the basic livability and aesthetics for the Development or neighbourhood.

PART 7 – ENFORCEMENT AND OFFENCES

- 7.1 General. No Person shall obstruct, interfere with or hinder Shxw'ōwhámél, Council, and Enforcement Officer or any authorized employee, officer or agent in the carrying out of their duties and responsibilities under this Law.
- 7.2 Right to Enter. For the purpose of this Law, an Enforcement Officer may enter any lands on Shxw'ōwhámél Lands at any time for the purpose of ascertaining whether the requirements of this Law are being observed.
- 7.3 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 of 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.
- 7.4 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 wishing 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.
- 7.5 Orders.

- (a) In addition to any other applicable fine, penalty or remedy, Council, the Lands Department, an Enforcement Officer, or a designated official may issue a stop work order or a cease and desist 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 that is causing or contributing to a disturbance.
- (b) An order made under subsection 7.5(a):
 - (i) may be registered in Court and enforced as a court order; and
 - (ii) continues in force until the condition that led to it is remedied or until the activity that is the subject of the order receives a permit or authorization pursuant to this Law.
- (c) An order made pursuant to this Law will have immediate effect.

7.6 Qwi:qwelstóm. Notwithstanding sections 7.3 to 7.5, 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 8 – IMMUNITY

- 8.1 General. No action for damages lies or may be instituted against present or past Council, a Noise Control 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.
- 8.2 No Defence. Section 8.1 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.
- 8.3 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.
- 8.4 Limitation Period. Subject to sections 8.1 and 8.3, 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.

8.5 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 9 – AMENDMENT

9.1 General. Subject to section 9.3, this Law may only be amended in the manner provided in the Land Code.

9.2 Regular Reviews. Shxw'ōwhámél will review and, if appropriate, amend this Law in accordance with section 9.1 every five (5) years, or whenever Council determines, in its sole discretion, that this Law should be reviewed and, if appropriate, amended.

9.3 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 10 – GENERAL PROVISIONS

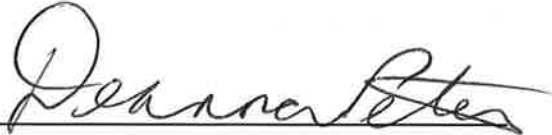
10.1 Compliance with other Laws. Where any other law or legal requirement may apply to any matter covered by this Law, compliance with this Law will not relieve the person from also complying with the provisions of such other applicable law or legal requirement.

10.2 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.

10.3 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 Development Law, 2019**, and is hereby enacted by a quorum of Council of the Shxw'ōwhámél First Nation held on July 3 2019, 2019.









Quorum consists of 4 Council members.

Schedule "A"

Site Plan Package Review Checklist

Name of
Proponent:

Last Name,

First Name,

Middle Name

Is the Proponent an SFN Member:

Yes

No

Membership Verification:

Yes

No

Contact Information for Proponent:

Address

Phone Number

Email

Has the Proponent indemnified Shxw'ōwhámél First Nation of all liability associated with the Development?

Yes

No

Has the Proponent provided proof of adequate insurance? Yes No

Site Characteristics

Address/Location of Development: _____

Size of Development parcel: _____

Is survey needed?

Yes

No

Is the land designated?

Yes

No

SITE PLAN PACKAGE REVIEW CHECKLIST (continued)

Type of Development

Small size (less than 3 acres of land, less than 3 residential units, and less than 250 m² of industrial or commercial floorspace)

Large size (greater than 3 acre of land, more than 3 residential units, or greater than 250 m² of industrial or commercial floorspace)

Description of Proposed Development:

How will this development impact the Shxw'ōwhámél community? (describe social, economic, cultural and environmental impacts)

Have environmentally sensitive areas on the parcel to be developed been identified and have strategies been identified to properly address these to the satisfaction of Shxw'ōwhámél?

Yes No

Is a Phase 1 Environmental Site Assessment required?

Yes No

If a Phase 1 Environmental Site Assessment has been undertaken, has a mitigation strategy for addressing contaminated lands been developed to the satisfaction of Shxw'ōwhámél First Nation?

Yes No N/A

SITE PLAN PACKAGE REVIEW CHECKLIST (continued)

Has an Archeological Assessment been undertaken and have strategies been identified to protect key archeological and sacred areas?

Yes No N / A

Land Use

Proposed Land Use: _____

Refer to the appropriate Land Use Plan maps (Figures 4.1 to 4.3).

	Current Land Use	Proposed Land Use
	Check Box	Check Box
Residential	<input type="checkbox"/>	<input type="checkbox"/>
Commercial/Industrial	<input type="checkbox"/>	<input type="checkbox"/>
Community Use	<input type="checkbox"/>	<input type="checkbox"/>
Culture and Heritage	<input type="checkbox"/>	<input type="checkbox"/>
Open Space	<input type="checkbox"/>	<input type="checkbox"/>
Environmental Protection	<input type="checkbox"/>	<input type="checkbox"/>
Agriculture	<input type="checkbox"/>	<input type="checkbox"/>

Will a Land Use Plan amendment be required? Yes No

If yes, fill in Land Use Plan amendment application form.

Zoning

Check current and proposed zoning for the site. Refer to the Zoning Law.

	Current Zoning	Proposed Zoning
	Check Box	Check Box
Residential – R1 (Large Lot)	<input type="checkbox"/>	<input type="checkbox"/>
Residential – R2 (Small Lot)	<input type="checkbox"/>	<input type="checkbox"/>
Residential – R3 (Multi-Unit)	<input type="checkbox"/>	<input type="checkbox"/>
General Commercial – C1	<input type="checkbox"/>	<input type="checkbox"/>
Highway Commercial – C2	<input type="checkbox"/>	<input type="checkbox"/>
Tourism Commercial – C3	<input type="checkbox"/>	<input type="checkbox"/>

SITE PLAN PACKAGE REVIEW
CHECKLIST (continued)

Current Zoning Proposed Zoning

Check Box

Check Box

Parks and Recreation - P1

Community Use - P2

Protected Areas - P3

Natural Resource - NR

Future Development - FD

Other (please write in) _____

Proposed density (residential-only): _____

units/ha

Proposed site coverage (proportion of lot covered by buildings [C1 and

C2 zones only]): _____

%

Lot sizes (for subdivisions): _____ ha

Is a Home Based Business being proposed?

Yes

No

Does everything comply with the Zoning Law:

Yes

No

If no, fill in a Zoning Amendment application form.

Buildings

Principal Buildings

What is the size of the principal building? _____ m²

Complies with Zoning Law:

Yes

No

Accessory Buildings

Does the Development include an accessory building?

Yes

No

Size of Accessory Building(s): _____ sq. m

SITE PLAN PACKAGE REVIEW CHECKLIST (continued)

Complies with Zoning Law: Yes No

Principal Building Setbacks

Front Yard Setback:

Side Yard Setback: _____

Rear Yard Setback: _____

Accessory Building Setbacks (minimum is 2.0 m): _____

Any projections into setbacks (refer to **Section 3.19** of the Zoning Law for examples of encroachment into setbacks): _____

Complies with Zoning Law: Yes No

If no, fill in a Zoning Amendment Application Form or a Zoning Variance Form.*

*Note: A Zoning Variance Application Form is used if the proposed development results in a change of less than 10% of the applicable measurement.

Other Issues

Number of parking stalls provided:

Number of parking stalls recommended:

Is adequate snow storage provided for driveways to prevent snow from being deposited onto adjacent

parcels? Yes No

Will access to adjacent lots be required for construction: Yes No

Fencing (refer to Section 3.9 – 3.10 of the Zoning Law)

Does fencing conform to Zoning Law:

Yes

No

If no, fill in a Zoning Variance Application Form.

Infrastructure Servicing

SITE PLAN PACKAGE REVIEW CHECKLIST (continued)

Does the proposed development result in a significant extension of infrastructure services that Shxw'ōwhámél First Nation typically provides (water, roads)?

Yes No N/A

Has the Development Proponent agreed to pay for the infrastructure servicing of the land?

Yes No N/A

How will sewage be disposed?

Individual Septic System

Community Septic System

Other

If an individual septic system is being used, is there proof that there is room on the lot for a replacement septic system?

Yes No

If an individual septic system is being used, is it approvable by

Health Canada? Yes No

If the lot is not connected to the community water distribution system, has the Development Proponent provided proof of potable water?

Yes No

Has the Development Proponent secured the extension of electricity and communications infrastructure to service the land?

Yes No

Has the Proponent provided proof of adequate fire protection?

Yes

No

SITE PLAN PACKAGE REVIEW CHECKLIST (continued)

Financing

Does the Development Proponent have proof of sufficient financial resources to complete the project (including bringing in services, if applicable) in a reasonable timelines?

Yes No N/A

If the development is an industrial or commercial development, has an acceptable business plan been prepared?

Yes No N/A

Summary

Land Use Plan Amendment required:	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Zoning Amendment required	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Zoning Variance required:	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Application complies with Land Use Plan and Zoning Law:	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

Review

Site Plan Package Review by:

Lands Department Manager

Band Administrator

Note: this Site Plan Package Checklist is not exhaustive and therefore, reference should still be made to the Land Use Plan and the Zoning Law to ensure any new development is in compliance with these two documents.

Schedule "B"
Prescribed Application Forms

Schedule "C"

SAMPLE DEVELOPMENT PERMIT



Shxw'owhámél First Nation
DEVELOPMENT PERMIT

DEVELOPMENT PERMIT #: **SFNDP#**
DATE OF PERMIT:

AGENT/ APPLICANT
Name: ["You"]
Address:

OWNER
Name: ["You"]
Address:

PROPERTY INFORMATION/ LEGAL DESCRIPTION
LOT # PLAN # CLSR, Shxw'owhámél First Nation I.R. # [the
"Property"]

TERMS AND CONDITIONS:

You are hereby authorized to carry out the following work in accordance with section of
the *Shxw'owhámél First Nation Development Law*, under the following terms and
conditions:

- The work authorized under this Permit is:
 - To construct as set out in the approved Site Plan Package and professional drawings (the "Construction") dated _____, a copy of which is attached to this Permit (the "Plans");
- This Permit is issued subject to the following conditions:
 - By signing as an applicant, where other than the Owner, the agent or applicant represents that he or she is the agent of the Owner and has the Owner's authority to agree to these Permit conditions for and on the Owner's behalf.

- You acknowledge that Shxw'ōwhámél First Nation is not in any way certifying the proposed work or design and that all responsibility and liability arising in relation to the Construction or its design rest solely with you and your engineer;
- In return for the approval of this Permit, you agree to indemnify and save harmless Shxw'ōwhámél First Nation, and each of its elected officials, officers, employees, solicitors, agents and servants of and from any claims, suits, liabilities, judgments, costs, expenses or actions of any kind arising from or related to this permit or any communications or representations in connection with the work authorized by this Permit;
- You are required to carry out the Construction and all related structures and infrastructure in accordance with the Plans and do not make any substantial alterations to the Plan without first notifying Shxw'ōwhámél First Nation in writing and, if requested by Shxw'ōwhámél First Nation, seeking further approval for these substantial alterations;
- You agree not to damage anything outside of your property and that, if you do, you will repair, at your own cost, any damage to Shxw'ōwhámél First Nation works, roads, pavements, curbs, sidewalks, trees, aquatic or drainage works as a result of the work covered by this permit;
- You are required to carry out the Construction and all related structures and infrastructure to meet as a minimum, the standards within:
 - i. the B.C. Building Code; and
 - ii. all relevant laws and standards including federal, provincial and Shxw'ōwhámél First Nation laws; and
- You do not make use of the building until you have provided us the following documents:
 - i. Final sign-off from Lands Department as to compliance re SFN laws
 - ii. Final sign-off from a certified Building Inspector.
 - iii. Final sign-off from a certified Electrician.
 - iv. Final sign-off from a certified Plumber.
 - v. Final sign-off from Popkum Fire Department to ensure all safety requirements are met.

This Development Permit: SFNDP# _____ is hereby approved by a quorum of Si:yá:m Council at a duly convened Si:yá:m Council of the Shxw'ōwhámél First Nation meeting held on _____, 201_

Councilor

Councilor

Councilor

Councilor

Schedule "D"
Land Use Plan

