

SEMA:TH FIRST NATION
SUBDIVISION, DEVELOPMENT AND
SERVICING LAW

NOVEMBER 2ND, 2015

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PREAMBLE

WHEREAS Sema:th (Sumas First Nation) has inherent aboriginal rights and title to our traditional territory that has sustained and defined our culture, traditions, spirituality, social, and economic way of life since time immemorial;

AND WHEREAS the teachings of the Sema:th ancestors speak of the obligation of the people to look after the land all resources as they rightfully use them in a sustainable manner according to Sema:th laws;

AND WHEREAS Sema:th's pursuit of economic development will be sensitive to the cultural and environmental needs of the people for future generations;

AND WHEREAS Sema:th has entered into the *Framework Agreement on First Nation Land Management* with Canada initially signed on February 12, 1996, as amended, and which was ratified on behalf of the Government of Canada by *First Nation Land Management Act*;

AND WHEREAS the Sema:th (Sumas First Nation) has taken control of Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Sema:th Land Code* effective the 11th day of November, 2011;

AND WHEREAS by enacting this Law, the Members of Sema:th are exercising their inherent right of self-government and providing for governance that is accessible, stable, effective, accountable and transparent;

NOW THEREFORE, THIS SEMA:TH SUBDIVISION, DEVELOPMENT AND SERVICING LAW IS HEREBY ENACTED AS A LAW OF SEMA:TH.

1. NAME

(1) This Law may be cited as the *Sema:th First Nation Subdivision, Development and Servicing Law*.

2. PURPOSE

(1) The purpose of this Law is to promote environmentally sustainable, healthy, safe, convenient and well planned use of Sema:th Lands.

3. WHERE THIS LAW APPLIES

(1) The provisions of this Law apply to the whole area of the Reserve and Sema:th Lands as defined in the *Sema:th Land Code*.

4. DEFINITIONS

(1) For the purposes of this Law, terms have the same definitions as in the Land Code.

(2) For the purposes of this Law, the following definitions apply:

(a) "Enforcement Officer" means any person or persons appointed by Council, from time to time, to administer and enforce the provisions of Sema:th Laws enacted by Council, and includes any delegate, the RCMP and any peace officer;

(b) "Land Use Plan" means the Sema:th Land Use Plan dated October 31, 2013, approved by the Sema:th community; and

(c) "Person" means any natural person, corporation, and, except where stated otherwise, any person who is a Member of Sema:th.

5. REPEAL AND REPLACEMENT; INITIAL ZONES

Zoning By-law 06-1992 Repealed and Replaced

(1) The "Sumas Indian Band Zoning and Development Bylaw" passed by Sumas Council on July 29, 1992, is repealed and replaced with this Law.

- (2) The land use designations from the Sema:th Land Use Plan dated October 31, 2013, approved by the Sema:th community are hereby adopted as the initial zones for Sema:th Lands.

6. GENERAL PROVISIONS

- (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.
- (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.

7. SUB-DIVISION, DEVELOPMENT AND SERVICING

Prohibited Activities without Authorization

- (1) None of the following are permitted within Sema:th Lands 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) re-zoning or any amendments to existing Land Use Designations set out in the Land Use Plan or zones set out in any Sema:th Zoning Law;
 - (d) any new construction, development, activity or use which was not lawfully in place or being lawfully carried out prior to the date that this Law came into force;
 - (e) any activity, use or development on a parcel of land which is not in strict conformity with the Land Use Plan or zones set out in any Sema:th Zoning Law;
 - (f) commencement of operations by a business or trade which involves an activity, use, or development that is not in strict conformity with the requirements of this Law;
 - (g) use of any land as a garbage dump, waste facility or hazardous waste facility;
 - (h) installation, erection or posting of signs;
 - (i) installation of roads, intersections, sewer, water and other infrastructure;
 - (j) construction, alteration, enlargement, addition, demolition or removal of industrial, commercial or residential structures, including the installation, demolition or removal of swimming pools and decks;
 - (k) building or development within the flood plain;
 - (l) increasing the net run-off or drainage flow from a parcel of land;
 - (m) deposit or removal of more than 10 m³ of soil, gravel or other materials; and
 - (n) drilling, excavation, or pumping water from a well or abandoning, decommissioning or ceasing to use a well.
- (2) Without limiting the generality of subsection (1), the following are prohibited:
 - (a) subdivision or partitioning of one or more parcels of Sema:th 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 subsections 7(1) or 7(2)(c) without a Development Permit.

Exemptions

- (3) Despite subsections 7(1) and (2), the following do not require any approvals under this Law in and of themselves, provided they conform to the BC Building Code (2012) and its successor Codes, although all such structures and activities are required to comply with all other Laws:
 - (a) construction of any non-residential structure the footprint of which is less than 200 square feet;
 - (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 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.

8. APPLICATIONS AND APPROVALS

Temporary Use Permit

- (1) An applicant may apply for a Temporary Use Permit to allow them to carry out for up to one year an activity or land use that would otherwise be prohibited by this Law.
- (2) An applicant for a Temporary Use Permit must pay the prescribed fee and complete the prescribed application form.
- (3) After circulating an application under section 8(2) internally for review and comment, the Lands Manager shall refer the application to Council along with any comments and recommendations from the Lands Advisory Committee.
- (4) Council shall decide whether or not to approve the application and, without limiting the generality of Council's authority, Council may by Resolution:
 - (a) Request further information, review or analysis,
 - (b) Reject the application, or
 - (c) Approve the application in writing with any reasonable terms or conditions.
- (5) A Temporary Use Permit approved by Council under subsection (4) expires upon the earlier of:
 - (a) The date set for expiration by Council in the Resolution approving the

- Permit; or
- (b) the first anniversary of the date of the Council Resolution approving the Permit.

Only one Renewal

- (6) A Person with a Temporary Use Permit may apply to renew the Permit only once for a period of up to one more year.
- (7) It is prohibited for a Person to apply for more than one renewal for a Temporary Use Permit for the same use on the same parcel of land.

General Applications

- (8) Every applicant, including developers and contractors, applying for an approval to carry out a project, development, activity or procedure set out in subsection 7(1) or 7(2) shall pay the prescribed fees and submit an application to the Lands Manager in the prescribed form that meets the applicable requirements set out in the following:
 - (a) General Engineering Requirements for Land Development on Sema:th Lands;
 - (b) General Requirements for Environmental Assessments on Sema:th Lands;
 - (c) Sto:lo Heritage Policy Manual;
 - (d) Subdivision and Development Application and Checklist;
 - (e) The BC Building Code; and
 - (f) Directions from certified professionals.
- (9) Applications shall be reviewed and processed in stages, generally in the following order:
 - (a) Rezoning (if required under Sema:th Law);
 - (b) Amendment of the Land Use Plan;
 - (c) Subdivision;
 - (d) Conceptual Plan;
 - (e) Approval in Principle;
 - (f) Development Permit;
 - (g) Substantial Completion; and
 - (h) Completion.
- (10) 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

- (11) An applicant may apply for approvals under this Law concurrently with a re-zoning application under the Sema:th 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.

Single Family Exemptions

(12) Despite subsection 8(8)(c), a Sto:lo Heritage Investigation Permit is not required for construction of single family homes for Sema:th Members.

Review by Advisory Committee and other Departments

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

- (a) refer the application to a meeting of the Land Management Advisory Committee along with all relevant information and documentation;
- (b) circulate the application and all relevant information and documentation within the Sema:th administration for comment;
- (c) for applications for sub-divisions, multi-family structures, or significant increases in density, refer the application to all adjacent CP holders on Sema:th Lands; and
- (d) if appropriate, refer aspects of the application to the City of Abbotsford.

(14) The Advisory 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 set by Council.

Principles and Factors in Reviewing Applications

(15) For each application, the Advisory Committee shall consider the following general principles and factors:

- (a) The promotion of health, safety, convenience and welfare of Sema:th members and of residents and occupants and other persons who have a lawful interest in Sema:th Lands;
- (b) Well planned and orderly development of Sema:th Lands and the preservation of amenities and special features of Sema:th Lands;
- (c) Compliance with Sema:th Land Use Plan and Sema:th Laws and with relevant federal, provincial and municipal laws and standards;
- (d) Environmental protection and enhancement;
- (e) Flood Plain measures;
- (f) Adherence to Sema:th housing policies;
- (g) Provision of community benefits including land and/or funds to Sema:th for the development of community amenities;
- (h) Protection and enhancement of cultural and heritage sites;
- (i) Compatibility with Sema:th and Sto:lo culture;
- (j) Viewsapes, aesthetics and visual qualities;
- (k) Ensuring adequate parking, access and emergency access;
- (l) The character of the proposed activity or project in relation to the character of the zone, neighbourhood, and the buildings already erected;
- (m) The conservation of property values;
- (n) Potential impacts on adjacent uses, owners and occupants;

- (o) The development of the zone, neighbourhood and Reserve in a manner that contributes to the economic, environmental, cultural and community health of Sema:th and its Members and the occupants of Sema:th Land;
- (p) 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
- (q) Any other factors which may have an impact on the community or Sema:th Lands.

Examples of Recommendations

- (16) 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 8(15);
 - (b) whether there should be bonds posted or irrevocable letters of credit and, if so, in what percentage or what amount;
 - (c) 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 City of Abbotsford;
 - (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.

- (17) The Lands Manager shall ensure that recommendations from the Advisory Committee are written up within 30 days after the Advisory Committee meeting.

Lands Manager May Request Further Information

- (18) After reviewing the recommendations from the Advisory Committee and any comments from adjacent land-owners and from Sema:th administration, the Lands Manager may request further information, plans, reports, or other relevant material from the applicant which the applicant shall provide.

Timelines

- (19) The Lands Manager shall as soon as practicable after having received the comments under subsection 8(13) and (14), or within 14 days of having received the additional information requested under subsection (18), 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 Manager and Sema:th administration; and
 - (e) Any comments from the City of Abbotsford.

Council Decisions

- (20) As soon as practicable after receiving the application and information set out in subsection 8(19) 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 8(15) and (16).

9. OFFENCES, PENALTIES AND ENFORCEMENT

Penalties

- (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.
- (2) A fine payable under subsection 9(1) shall be remitted to the Sema:th First Nation by the Court, after reasonable Court costs have been deducted.
- (3) Despite subsection 9(1), Sema:th may also authorize the Lands Manager, a designated official or an Enforcement Officer to issue a ticket or violation notice to impose a sanction, fine or administrative penalty for contraventions of this Law.

Enforcement and Stop Work Orders

- (4) In addition to any other applicable fine, penalty or remedy, Council, the Lands Manager, 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 7(1) or 7(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.

- (5) A Stop Work Order imposed under subsection 9(4) may be registered in court and enforced as a court order and 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.

10. COMING INTO FORCE

Date Law Comes into Force

- (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.

BE IT KNOWN that this Law entitled *Sema:th Subdivision, Development and Servicing Law* is hereby enacted by a quorum of Council at a duly convened Council of the Sema:th First Nation held on November 2nd, 2015.



Chief Dalton Silver



Councillor Murray Ned



Councillor Jackie Bird

Councillor Clint Tuttle

A quorum consists of 3 Council Members