



SEABIRD ISLAND
DEVELOPMENT LAW, 2015

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WHEREAS Seabird has traditional laws and teachings including:

Éy kws hákw'elestset te s'í:wes te siyólexwálh,
Xaxastexw te mekw'stam,
Éwe chexw qelqelit te mekw'stam lóy kw'es li hokwex yexw lamexw kwú:t,
S'ólh téméxw te íkw'élò xólhmet te mekw' stám ít kwelát

AND these cannot be exactly translated into English but they include the following concepts:

It is good to remember the teachings of our ancestors;
Respect all things;
Don't waste, ruin, destroy everything, only take what you need;
This is our land we have to take care of everything that belongs to us;

AND Seabird Island ("Seabird") 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*;

AND the Seabird Island has taken control of Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Seabird Island Band Land Code* effective September 1, 2009;

AND Seabird has a mandate to preserve, protect and sustainably manage the Reserve land base to create wealth and well-being for our community and for the future generations on Seabird Island;

AND under the Seabird Island Band *Land Code*, Seabird Council is authorized to pass various laws relating to lands including laws relating to interests in land the development, conservation, management, use and possession of land under section 7.1 of the Code;

NOW THEREFORE, this Seabird Island Development Law, 2015 is hereby enacted at a duly convened meeting as a Law of Seabird Island.

PART 1. NAME

- 1.1 This Law may be cited as the *Seabird Island Development Law, 2015*.

PART 2. PURPOSE

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

PART 3. WHERE THIS LAW APPLIES

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

PART 4. DEFINITIONS

- 4.1 For the purposes of this Law, terms have the same definitions as in the Land Code unless otherwise stated.

- 4.2 For the purposes of this Law, the following definitions apply:

"Person" means any natural person, corporation, and, except where stated otherwise, any person who is a Member of Seabird, and

"Reserve" means the whole of the Seabird Island Indian Reserve, including, without limiting the generality of the foregoing, any conditionally surrendered lands, designated lands, and lands subject to any form of leasehold interest, allotment, certificate of possession or permit.

PART 5. GENERAL PROVISIONS

- 5.1 The headings of parts and sections in this Law have been inserted as a matter of convenience and for reference only and in no way define or limit or any of its provisions.
- 5.2 In the event that all or any part of any section or sections of this Law are found by a court of competent jurisdiction to be invalid, such sections shall be severable, and the remaining portions or sections shall remain in full force and effect.

PART 6. SUB-DIVISION, DEVELOPMENT AND SERVICING

Prohibited Activities without Authorization

- 6.1 None of the following are permitted within Seabird Island 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) development,
 - (d) installation of roads, intersections, rip-rapping, erosion control, dyking, sewer, water, and other infrastructure,
 - (e) construction, alteration, enlargement, addition, demolition or removal of industrial, commercial or residential structures, including the installation, demolition or removal of signs, swimming pools and decks,
 - (f) anything that puts structures or people at risk within the flood plain or increases flood risks;
 - (g) anything that takes place in or within 30m of a water body or fish habitat;
 - (h) deposit or removal of more than 10 m³ (approximately one dump truck load) of clean, non-polluted soil, gravel or other materials per year per parcel of land; and
 - (i) cutting, removal or alteration of any tree.
- 6.2 Despite subsection 6.1 and unless they are to be constructed, carried out, or installed in or within 30 metres of a water body, or they involve the likely release of a polluting substance into a water body, the following do not require any approvals under this Law in and of themselves:
- (a) construction of any non-residential structure the footprint of which is less than 200 square feet, provided the builder or owner accepts full liability,
 - (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:
 - (i) does not require an excavation deeper than 1.5 m and where the Person calls BC One Call and the Lands Office to ensure there are no buried utilities; or
 - (ii) does not require the removal or deposit of more than 10 m³ of clean non-polluted 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.

PART 7. APPLICATIONS AND APPROVALS

- 7.1 Every applicant applying for an approval to carry out a project, development, activity or procedure set out in section 6.1 or 6.2 shall pay the prescribed fees and submit an application to the Lands Manager in the prescribed form that meets the applicable requirements set out in the following:
- (a) If required, a community vote under the Land Code;
 - (b) General Engineering Requirements for Land Development on Seabird Island Lands;
 - (c) General Requirements for Environmental Assessments on Seabird Island Lands;
 - (d) Seabird Heritage Policy;
 - (e) Subdivision and Development Application and Checklist;
 - (f) 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); and
 - (g) In any directions from certified professionals.
- 7.2 Applications shall be reviewed and processed in stages, generally in the following order:
- (a) Rezoning (if required under the *Seabird Island Zoning and Land Use Law*),
 - (b) Subdivision,
 - (c) Conceptual Plan,
 - (d) Meeting requirements set out section 7.1,
 - (e) Approval in Principle,
 - (f) Survey,
 - (g) Development Permit,
 - (h) Substantial Completion, and
 - (i) Completion.
- 7.3 Applicants shall pay the prescribed fee, post any required bonds, and submit the prescribed application form for each relevant stage set out in this Part.

Concurrent Re-zoning Applications

- 7.4 An applicant may apply for approvals under this Law concurrently with a re-zoning application under the *Seabird 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.

Single Family Exemptions

- 7.5 Despite subsection 7.1(d), a Seabird Heritage Investigation Permit is not required for construction of single family homes for Seabird Members but:
- (a) The builder or owner must allow monitoring by Seabird if requested in writing; and
 - (b) any construction must stop and the builder or owner must follow the Seabird Heritage Policy if any artifacts or remains are uncovered.

Review by Land Advisory Committee and other Departments

- 7.6 As soon as practicable after receiving the prescribed fees and a complete application under this Part, the Lands Manager shall:
- (a) refer the application to a meeting of the Land Advisory Committee along with all relevant information and documentation;
 - (b) circulate the application and all relevant information and documentation to internal Seabird departments for comment;
 - (c) for applications for sub-divisions, multi-family structures, or significant increases in density, refer the application to all adjacent Members on Seabird Island Lands and direct the developer to hold at least one open house or meeting; and

- (d) if appropriate, refer aspects of the application to the District of Kent, the Fraser Valley Regional District or other provincial or federal agencies.

7.7 The Land 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

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

- (a) Consistency with the traditional principles and values set out in this Law;
- (b) The promotion of health, safety, convenience and welfare of Seabird members and of residents and occupants and other persons who have a lawful interest in Seabird Island Lands;
- (c) Well planned and orderly development of Seabird Island Lands and the preservation of amenities and special features of Seabird Island Lands;
- (d) Compliance with Seabird *Land Use Plan* and Seabird *Land Zoning and Land Use Planning Law*, Seabird Laws and with relevant federal, provincial and municipal laws and standards;
- (e) Environmental protection and enhancement;
- (f) Adherence to the Seabird Island Band *Community Housing Policy*;
- (g) Provision of community benefits including land and/or funds to Seabird for the development of community amenities;
- (h) Protection and enhancement of cultural and heritage sites;
- (i) Compatibility with Seabird culture;
- (j) Viewscapes, 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 Seabird and its Members and the occupants of Seabird 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 Seabird Island Lands.

Examples of Recommendations

7.9 In making recommendations to Council, the Land Advisory Committee may make any relevant recommendations including:

- (a) any recommendation relating to the general factors set out in subsection 7.8;
- (b) whether there should be bonds posted or irrevocable letters of credit and, if so, in what percentage or what amount;
- (c) 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;
- (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) noise and dust prevention or mitigation measures;
- (n) erosion protection, rip-rapping, shoring up, raising of roads or structures, construction

- of dykes;
- (o) upgrades, extensions or contributions to water, sewer and other utilities,
- (p) protection or enhancement of fish and wildlife habitat and fishing sites; and
- (q) any other relevant terms or conditions.

7.10 The Lands Manager shall ensure that recommendations from the Advisory Committee are written up as soon as practicable after the Land Advisory Committee meeting.

Lands Manager May Request Further Information

7.11 After reviewing the recommendations from the Land Advisory Committee and any comments from adjacent land-owners and from Seabird Directors and departments, the Lands Manager may request further information, plans, reports, or other relevant material from the applicant which the applicant shall provide.

Timelines

7.12 The Lands Manager shall as soon as practicable after having received the comments under subsection 7.6 and 7.7, or within 7 days of having received the additional information requested under subsection 7.11, forward the application to Council along with:

- (a) All relevant documents, maps, plans, reports and other information;
- (b) Recommendations from the Land Advisory Committee;
- (c) Any comments received from adjacent land-owners or Members;
- (d) Any comments or recommendations from the Lands Manager, Seabird Directors or departments; and
- (e) Any comments from the Fraser Valley Regional District or District of Kent.

Council Decisions

7.13 As soon as practicable after receiving the application and information set out in section 7.12 Council shall decide whether or not to approve the application and, without limiting the generality of Council's authority, Council may:

- (a) Reject the application,
- (b) Approve the application with any reasonable terms or conditions, including, but not limited to terms or conditions relating to the items set out in subsections 7.8 and 7.9.

7.14 The Lands Manager shall not issue a Notice of Completion until:

- (a) the Seabird Lands Office 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 complied with; and
- (e) the applicant has fulfilled all other reasonable requirements of Seabird.

PART 8. OFFENCES, PENALTIES AND ENFORCEMENT

Penalties

8.1 A person who contravenes this Law or an order made by a Court pursuant to this Law is guilty of an offence and:

- (a) liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than three months, or to both; and
- (b) liable to any fines, penalties or enforcement measures available under the *First Nation Land Management Act*, the Land Code, this Law or any other Seabird Law.

8.2 A fine payable under paragraph 8.1 shall be remitted to the Seabird Island by the Court, after reasonable Court costs have been deducted.

Enforcement and Stop Work Orders

8.3 In addition to any other applicable fine, penalty or remedy, Council, the Lands Manager, or a designated official may:

- (a) Issue any order or pursue any enforcement provided for under the *First Nation Lands Management Act*, the Land Code, this Law or any other Seabird Law;
- (b) issue a Stop Work Order to order any Person who has not received full and proper authorization under this Law to cease carrying out any activity, use or construction listed under subsection 6.1 or 6.2 or any related activity or use;
- (c) issue a removal or remediation order for 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.

8.4 A Stop Work Order imposed under subsection 8.3:

- (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.

PART 9. DISPUTE RESOLUTION AND APPEALS

9.1 Any affected Person may apply for dispute resolution or pursue appeals in accordance with the Land Code and any Seabird dispute resolution or appeal laws or processes that are in force.

Appeals

9.2 Subject to the Land Code and any Seabird laws on appeals or dispute resolution processes, a person may appeal a decision relating to an application under this Part by submitting a written notice of appeal to the Seabird Lands Office which shall include:

- (a) A copy of the Resolution, letter or other document which is the subject of the appeal;
- (b) References to the sections of this Law under which the decision was made or should have been made;
- (c) The reasons for the appeal and any requests for reconsideration or re-wording of the original decision; and
- (d) Any other content prescribed by Council Resolution or regulation.

9.3 Council may, in its sole discretion, invite a Person who has submitted an appeal under subsection 9.2 to a Council meeting or hearing to seek further information regarding the appeal or provide the Person who submitted the appeal an opportunity to make verbal presentations.

9.4 After fully and fairly considering the information submitted or provided as part of an appeal, Council may:

- (a) Accept the appeal;
- (b) Reject the appeal; or
- (c) Vary or amend the original decision.

9.5 All appeals under subsection 9.2 shall be reviewed by Council within 45 days and the decision of Council regarding the appeal shall be final.

PART 10. GENERAL AND LEGAL

Severability

10.1 If a Court of competent jurisdiction holds any portion of this Law invalid, such invalidity shall not affect the remaining portions of the Law.

Regulations

10.2 Council may make regulations or pass Council Resolutions as follows:

- (a) prescribing the form and content of applications and fees;
- (b) prescribing the form and content of permits and related documents;
- (c) prescribing fees and penalties;
- (d) prescribing ticketing amounts; or

(e) setting in place any other matter required to implement this Law.

PART 11. COMING INTO FORCE

Date Law Comes into Force

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

BE IT KNOWN that this Law entitled *Seabird Development Law, 2015* is hereby enacted by a quorum of Council at a duly convened Council of the Seabird Island held on December 14, 2015.

quorum consists of 6

Council Members



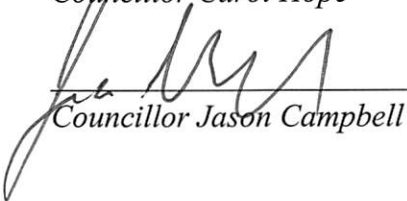
Chief Clement Seymour



Councillor Arlene Andrew



Councillor Carol Hope



Councillor Jason Campbell

Councillor Margaret Pettis



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