

k^wik^wəłəm First Nation

SUBDIVISION, SERVICING AND
DEVELOPMENT LAW

2024



k^wik^wəłəm
Kwikwetlem First Nation



k^wik^wə^ləm
Kwikwetlem First Nation

BAND COUNCIL RESOLUTION

The Council Of The:	k ^w ik ^w ə ^l əm First Nation
District:	Lower Mainland
Place and Province:	Coquitlam, British Columbia
Chronological	2024-2025-007
Date:	April 17, 2024

Resolution of the Council of the k^wik^wə^ləm First Nation (hereinafter called the "Council")

WHEREAS, Chief Ron Giesbrecht moved to enact the Subdivision, Servicing, and Development Law.

WHEREAS, Councillor John Peters seconded, adding, "Today, as we enact this Law, we honour our responsibility to our ancestors, our community, our lands, waters, and resources, and our future".


WHEREAS, the k^wik^wə^ləm First Nation Chief and Council unanimously voted on the approval of the Law at a public Chief and Council meeting held on April 17th, 2024.

THEREFORE, BE IT RESOLVED THAT: the k^wik^wə^ləm First Nation Chief and Council approves the enactment of the Subdivision, Servicing, and Development Law and authorizes the publication of this law.

This resolution acknowledges the significance of honoring our ancestors, our community, our lands, waters, and resources, and our future through the enactment of this law.

Quorum for Chief and Council is Two (2)


 Chief Ron Giesbrecht


 Councillor George Chaffee


 Councillor John Peters

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PREAMBLE

WHEREAS:

- A. kwikwə́ləm yəwəh̄ si:ʔem̄ enact this *Subdivision, Servicing, and Development Law* to honour and protect our Nation's Lands. Since time immemorial, kwikwə́ləm have planned for the use and care of our lands based on our inherent right to govern. We have never ceded nor surrendered our rights to our traditional territory, and we continue to uphold our responsibilities to our lands and waters;
- B. Our sovereignty comes from the Creator, the siʔém̄ xé·l̄s (transformers), šxwʔə́yém̄ (deep-time histories), and the land itself;
- C. kwikwə́ləm means "Red Fish up the River" in our həh̄qəmih̄əm̄ language, and comes from a unique run of sockeye salmon that once thrived in the waters of our territory. Our name reflects the strong connection that our Nation and məlstéyəxw have to the lands and waters of our home; a connection that has protected our tenacious and unyielding identity as kwikwə́ləm people and caretakers of our téməxw, qáʔ, and all that is cicəł and ʔiləp (lands, waters, and all that is above and below);
- D. We are guided by sniw̄ (teachings) to protect our land for future generations. We have the right to ensure the growth and wellbeing of our community in all ways - including economically, socially, spiritually, and culturally, today and for generations to come. This is kwəθə sxwteʔés kwəθə syəwéh̄əł ct kwəsəwł néms̄ (the way of our ancestors);
- E. Our lands are central to every aspect of kwikwə́ləm life. As stewards and caretakers of our lands, we have the right to enjoy, access, revitalize, develop and benefit from the resources of our territory;
- F. kwikwə́ləm has governed our lands, waters, resources and people for centuries, but we are not frozen in time. We continue to learn, to grow, and to evolve as a Nation, and wish to establish contemporary laws that are rooted in the traditional governance principles that have guided kwikwə́ləm people for generations.
- G. kwikwə́ləm has jurisdiction over our lands and resources and has enacted the kwikwə́ləm *Land Code*;
- H. kwikwə́ləm has authority under the *Land Code* to make laws including for the development, conservation, protection, management, use, and possession of kwikwə́ləm land, the authorization and regulation of subdivisions, and the provision of services; and

- I. kwikwəłəm yəwəh̓ si:ʔeḥ̓ (Chief and Council) believes it is in the best interest of kwikwəłəm to enact a law addressing the subdivision, servicing and development of kwikwəłəm Lands.

NOW THEREFORE this kwikwəłəm Subdivision, Servicing and Development Law is hereby enacted as a Law of the kwikwəłəm First Nation.

PART 1 – GENERAL PROVISIONS

1. Name

- 1.1 This Law may be cited as the *kwikwəłəm Subdivision, Servicing and Development Law*.

2. Purpose

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

PART 2 – APPLICATION OF LAW

3. Application

- 3.1 The provisions of this Law apply to kwikwəłəm Lands, as defined by the *kwikwəłəm Land Code*.

PART 3 – INTERPRETATION

4. kwikwəłəm Legal Tradition

- 4.1 kwikwəłəm has a responsibility to ensure that all persons within kwikwəłəm territory act in accordance with values and legal order that have existed since time immemorial, including:

- **Honouring our Culture.** For thousands of years, we have planned for the use and care of our lands. Our stories, social and moral codes, cultures and economies are closely tied to our deep relationship with our lands and waters. As we move forward today, we strive to honour the teachings of our Elders to respect, care for and protect our lands and waters for all present and future generations.

- **Honouring our People.** We live in accordance with our ancestor’s values to act for the benefit of all m`elst`eyexw (community members) and future generations of kwikwəłəm. As kwikwəłəm people, we have been planning for our community since time immemorial. We share a responsibility to each other and seek to work together as one for the shared benefit of our Nation.
- **Honouring our Lands.** kwikwəłəm are connected to, and are stewards of, our lands. Our decisions are informed by our responsibility to protect the lands and waters within our territory. We honour all lands, waters and beings, physical and spiritual, that live within, rely upon, and migrate through our territory.

4.2 kwikwəłəm legal tradition lies at the foundation of kwikwəłəm contemporary laws. Key legal principles are written across kwikwəłəm lands, and kwikwəłəm people and guests to the territory must honour these legal traditions. All persons on kwikwəłəm lands honour kwikwəłəm legal tradition by abiding by contemporary kwikwəłəm laws.

5. Definitions

5.1 For the purpose of this Law, unless otherwise defined terms have the same definitions as in the *kwikwəłəm Land Code*;

5.2 In this Law:

- a) **“Accessory Building”** means a structure which is: 1) detached from and clearly subordinate to the principal use of or structure on a Parcel; 2) located on the same Parcel as the principal structure or use; and 3) clearly and customarily related to the principal structure or use, and for residential uses this may include but is not limited to: Manufactured Homes, garages, carports, coach houses, sheds, workshops, gazebos and playhouses;
- b) **“Advisory Committee”** means a committee established by Council to advise on matters related to kwikwəłəm Lands;
- c) **“Applicant”** means a Member, developer, contractor, agent, or any other person seeking to undertake Development in accordance with this Law;
- d) **“Application”** means an application for a Development Permit under this Law;

- e) **“Authorized Person”** means the person(s) duly appointed by Council to administer, direct, and manage matters related to kwikwəłəm lands, or their designate;
- f) **“Building Standards”** means the technical requirements and other standards set out in the latest edition of the *Building Act, BC Building Code, BC Plumbing Code, BC Electrical Code, BC Gas Code* and other relevant codes and enactments;
- g) **“Consultant”** means any Person contracted or employed by kwikwəłəm to provide professional guidance in relation to this Law, including:
 - i. Qualified Professionals;
 - ii. archaeologists;
 - iii. building inspectors;
 - iv. environmental consultants;
 - v. planners;
 - vi. landscape professionals; or
 - vii. any other person with expertise relevant to activities under this Law;
- h) **“Council”** means the lawfully elected governing body of kwikwəłəm and includes the Chief;
- i) **“Development”** means the activities set out at subsection 12.1 of this Law;
- j) **“Development Permit”** means a permit issued in accordance with this Law that authorizes Development;
- k) **“Diameter at Breast Height”** or **“DBH”** means the diameter of the trunk of a tree at 1.4 metres above the base of a tree. For multi-trunk trees, each trunk will be measured 1.4 metres above the highest point of the natural grade of the ground measured from grade and the DBH of the tree will equal the cumulative total of the three largest trunks;
- l) **“Enforcement Officer”** means:
 - i. any person or persons appointed by Council, from time to time, to administer and enforce the provisions of kwikwəłəm Laws enacted by Council;
 - ii. the RCMP; or
 - iii. a peace officer;

- m) “**Engineering Requirements**” means the engineering standards established by *kʷikwəłəm* from time to time including those relating to water, sewer, storm water, and highways;
- n) “**Environmental Requirements**” means the environmental standards established by *kʷikwəłəm* from time to time including those relating to environmental assessment, environmental management, and invasive species management. Environmental Requirements includes compliance with the *Impact Assessment Act S.C. 2019, c. 28, s. 1*;
- o) “**Fee**” means any fees or monies payable in accordance with this Law;
- p) “**Highway**” means and includes a street, road, lane, avenue, parkway, driveway, square, walkway, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles, but does not include private easements on private property;
- q) “**Housing Policy**” means the *kʷikwəłəm Housing Policy (2014)* as amended from time to time;
- r) “**kʷikwəłəm Lands**” means those lands under the jurisdiction of *kʷikwəłəm* as set out in the Land Code;
- s) “**kʷikwəłəm Laws**” means any enactment by *kʷikwəłəm* or validly passed Band Council Resolution, including laws, bylaws, or regulations;
- t) “**Land Code**” means the *kʷikwəłəm Land Code*;
- u) “**Land Use Plan**” means a land use plan that applies to *kʷikwəłəm* Lands;
- v) “**Law**” means this *kʷikwəłəm Subdivision, Servicing and Development Law*;
- w) “**Manufactured Home**” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities and which displays an appropriate Canadian Standards Association label;
- x) “**Minor Development**” means:
 - i. constructing, installing, demolishing, or legalizing:

- a. an Accessory Building, unless otherwise exempted under section 13;
 - b. an awning, canopy, or patio cover;
 - c. an attached deck, or detached deck larger than 10m², or balcony;
 - d. a road within a strata development;
 - e. a retaining wall;
 - f. a Secondary Suite within a single-family dwelling;
 - g. an above ground swimming pool or hot tub that requires no new foundation;
 - ii. significant renovation activities that include:
 - a. removing a load bearing wall, column, lintel or beam, or other structural changes to a building;
 - b. finishing of unfinished basements;
 - c. projects that add or relocate plumbing fixtures;
 - d. adding in new doors or windows where none were located before;
 - e. enlarging or moving existing windows or doors; and
 - f. moving existing plumbing, electrical or gas lines; or
 - iii. constructing or installing treehouses or any other structure sitting more than five (5) feet above average grade.
- y) **“MMCD Standards”** means the Master Municipal Construction Documents and Master Municipal Construction Documents Design Guidelines, incorporated by reference into this Law, as may be amended or varied by kwikwəłəm;
- z) **“Parcel”** means a lot, block, or other area in which land is held, or into which land is legally subdivided;
- aa) **“Protected Tree”** means:
- i. any tree with a Diameter at Breast Height of twenty (20) centimetres or more;
 - ii. a tree of any size, including a Replacement Tree, planted or retained as a condition to a Development Permit;
 - iii. a tree with evidence of nesting or use by raptors or the nest of an eagle, peregrine falcon, gyrfalcon, osprey, heron or burrowing owl, or used by any species protected by provincial or federal legislation;

- iv. an Arbutus (*Arbutus menziesii*), Garry Oak (*Quercus garryana*), Western Yew (*Taxus brevifolia*), Western white pine (*Pinus monticola*), Oregon ash (*Fraxinus latifolia*), or Pacific Dogwood (*Cornus nutalii*) at least fifty (50) centimetres in height;
- bb) “**Public Interest**” means the best interest of *kʷikwəłəm*, which, in the context of Development, is informed by consideration of the factors set out in subsection 20.1 of this Law;
- cc) “**Qualified Professional**” means:
 - i. an architect;
 - ii. an environmental scientist;
 - iii. a land use planner;
 - iv. a professional engineer;
 - v. a professional geoscientist;
 - vi. a qualified tradesperson;
 - vii. a lawyer or financial advisor; or
 - viii. other professional relevant to activities under this Law;
- dd) “**Regular Development**” means any Development that is not a Minor Development;
- ee) “**Relevant Qualified Professional**” means a Qualified Professional qualified in the area relevant to the activity prescribed under this Law;
- ff) “**Replacement Tree**” means a tree required in accordance with this Law, to replace a tree cut, removed, or damaged in relation to Development;
- gg) “**Secondary Suite**” means a dwelling within or appurtenant to a single-family dwelling that is clearly subordinate to the single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation;
- hh) “**Stop Work Order**” means an order issued pursuant to section 69 of this Law that requires all Development and any related activities to be stopped, except for any activities specifically permitted under the Stop Work Order;

- ii) **“Subdivision, Servicing and Development Application Checklist”** means a checklist established by kwikwəłəm that establishes the information required for the processing of Applications, which may be subject to change at any time at kwikwəłəm’s discretion;
- jj) **“Temporary Use Permit”** means a permit that allows a certain use of land, on a temporary basis, as further specified under section 50 of this Law;
- kk) **“Watercourse”** means any natural or human-made drainage course or source of water, whether usually containing water or not, and includes any lake, river, creek, spring, ravine, swamp, gulch, or source of ground water, whether enclosed in a conduit or not;
- ll) **“Warranty Period”** is the period twelve (12) months from the date the Authorized Person determines the Development is substantially completed and during which an Applicant is responsible for the costs of operation, maintenance, repairs and, if necessary, replacement of any Works and Services, landscaping, or other requirements in accordance with section 53 of this Law;
- mm) **“Works and Services”** means the services, facilities or utilities on kwikwəłəm Lands including lighting, roads, accesses, water distribution systems, fire hydrants, sewage collection and disposal systems, storm water drainage collection and disposal systems, irrigation systems, and other public service, facility or utility;
- nn) **“Works and Services Agreement”** means an agreement between kwikwəłəm and an Applicant that set out the terms and conditions of the provision of Work and Services.

6. References

- 6.1 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.
- 6.2 Unless otherwise specified, references in this Law to parts, sections, subsections and schedules are to part, sections, subsections and schedules to this Law.

6.3 References to any statute include a reference to that statute as amended, extended, consolidated or re-enacted and includes all regulations made thereunder.

6.4 The use of the word including means including but not limited to.

7. Time

7.1 Unless specified, a reference in this Law to days, weeks, months or years, means calendar days, weeks, months or years.

8. Severability

8.1 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.

9. Updated Standards

9.1 Any reference to standards, such as the Building Standards and MMCD Standards, means the version of the standards in force at the time a complete Application is accepted by the Authorized Person under this Law.

PART 4 – ADMINISTRATION

10. Administration

10.1 The Authorized Person may administer this Law and, whether or not specified in any provision in this Law, may work with any Consultant(s) the Authorized Person determines necessary.

PART 5 – SUBDIVISION AND DEVELOPMENT

11. Applicable Standards

11.1 All Development must be done in accordance with this Law and all applicable *kʷikwəłəm* Laws.

12. Development Activities

12.1 No Development activities are permitted within *kʷikwəłəm* Lands except in strict conformity with a Development Permit issued in accordance with the requirements of this Law and any other applicable laws. Development shall consist of:

- a) the construction, alteration, renovation, enlargement, addition, demolition, or removal of industrial, commercial, or residential structures, including the installation, demolition, or removal of swimming pools and decks;
- b) cutting down a Protected Tree or any form of clearing a Parcel for construction;
- c) the deposit, excavation, or removal of more than ten (10) cubic metres of soil, gravel or other material;
- d) drilling, blasting, or related activities;
- e) the storage of blasting materials, explosives, chemicals, or more than five hundred (500) litres of fuel or hazardous materials;
- f) the installation of Manufactured Homes;
- g) the installation or construction of Highways, intersections, sewers, water, dyking, flood protection, drainage works, and other infrastructure;
- h) site-preparation activities, including grading of the land;
- i) pouring foundation;
- j) activities that involve any impact, changes or alterations to connections to Works and Services;
- k) stratification or other division of legal interests in *kʷikwəłəm* Lands or structures into strata units, sub-leases, or shares;
- l) subdivision or partitioning of *kʷikwəłəm* Lands;
- m) the removal of natural resources;
- n) activities or work that creates a risk to structures or people within the flood plain or increases flood risks;
- o) anything that takes place in or within thirty (30) metres of a water body or fish habitat; and
- p) other activities, uses, or matters prescribed by *kʷikwəłəm* Laws.

13. Exempted Activities

13.1 Notwithstanding section 12 of this Law, the following activities do not require a Development Permit or any approvals under this Law provided they conform to *Kʷikwəłəm* Law and the Building Standards, and are in compliance with all other applicable laws:

- a) constructing or installing one non-residential Accessory Building on a Parcel, provided that the non-residential Accessory Building is smaller than ten (10) square metres, is placed at grade level, is not more than one storey in building height, and has no hook-ups or connections to services;
- b) work undertaken by and under the authority and direction of *kʷikwəłəm*;
- c) repairs or renovations of buildings that are primarily cosmetic in nature, and do not involve: structural alterations such as the removal of a load-bearing wall;

- the installation of new electric panels, or; the addition of new plumbing fixtures, and that are carried out in accordance with the Housing Policy;
- d) 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, that does not require the removal of Protected Trees or the removal or deposit of more than ten (10) cubic metres of soil, gravel or other material;
 - e) the construction or placing of tool sheds, construction shacks, scaffolding or similar temporary buildings, required for a limited period of time, intended solely to serve a development or activity that is being carried out in compliance with this Law, and located on the same site or on an adjoining Parcel; and
 - f) landscaping and minor yard work not requiring excavation deeper than 1.2 metres or the removal or deposit of more than ten (10) cubic metres of soil, gravel, or other material.

PART 6 – APPLICATIONS AND APPROVALS

14. Applications

- 14.1 An Application must meet all applicable requirements under *kʷikwəłəm* Law, including the Land Code, regulations, applicable laws and bylaws, and this Law. The issuance of a Development Permit does not replace or circumscribe any other approvals required by *kʷikwəłəm*.
- 14.2 All Applicants must attend a pre-Application meeting with the Authorized Person before submitting an Application.
- 14.3 Every Applicant who submits an Application for a Development Permit shall:
- a) pay Fees prescribed by *kʷikwəłəm*;
 - b) post any required security;
 - c) submit an Application to the Authorized Person in the prescribed form that meets the applicable requirements set by *kʷikwəłəm*, including:
 - i. Engineering Requirements;
 - ii. Environmental Requirements;
 - iii. The Subdivision, Servicing and Development Application Checklist;
 - iv. Building Standards;
 - v. Any additional documents from a Qualified Professional as requested by the Authorized Person; and
 - vi. such other information as *kʷikwəłəm* requires to evaluate the Application.

15. Concurrent Re-zoning Applications

- 15.1 An Applicant may apply for approvals under this Law concurrently with any re-zoning application that may be required under kwikwəłəm Laws. In the case of concurrent applications:
- a) all Fees payable under this Law and other kwikwəłəm Laws are due at the time of application;
 - b) the Applicant is required to provide completed applications under both Laws; and
 - c) the application for rezoning will be considered prior to the review and decision on an Application under this Law.

16. Application Stages

- 16.1 Applications shall be reviewed and processed in stages, generally in the following order:
- a) subdivision;
 - b) conceptual plan;
 - c) approval in principle;
 - d) development permit;
 - e) substantial completion;
 - f) inspection; and
 - g) completion.

17. Applicant Materials

- 17.1 The Authorized Person may require an Applicant to submit particular information as part of the Application as specified on the Subdivision, Servicing and Development Application Checklist, including information that must be provided by Relevant Qualified Professionals, such as any of the following:
- a) project rationale;
 - b) concept plan;
 - c) design rationale;
 - d) agent authorization form;
 - e) building elevations;
 - f) site plan, with development data included;
 - g) landscape plan;
 - h) housing impact analysis;
 - i) servicing report;
 - j) survey plan;
 - k) arborist report or tree inventory, including the location of any Protected Trees;

- l) economic impact analysis;
- m) profiles of any proposed road work, including topographical details;
- n) rainwater (stormwater) management plan;
- o) geotechnical report;
- p) traffic study;
- q) traffic management plan;
- r) environmental assessment;
- s) report by a professional engineer on the condition of existing infrastructure that may be impacted by the Development;
- t) evidence of the ability to obtain insurance in the amount and types required by *kʷikwəłəm* for the Development;
- u) proof of valid interest in *kʷikwəłəm* Lands;
- v) archaeological assessment report;
- w) report detailing compliance with the Building Standards;
- x) the completed Subdivision, Servicing and Development Application Checklist; and
- y) any other information the Authorized Person determines is required to assess the Application pursuant to this Law.

18. Request for Additional Information

18.1 The Authorized Person may:

- a) require that the Applicant provide any additional information the Authorized Person determines would be necessary to aid in consideration of the Public Interest factors; and
- b) provide direction to the Applicant on how to address the Public Interest factors.

19. Application Costs

19.1 The Authorized Person may require an Applicant for a Development Permit to pay or reimburse *kʷikwəłəm* for Consultant costs associated with *kʷikwəłəm*'s review of an Application, including where the Authorized Person determines:

- a) technical expertise is needed to determine the suitability of the proposed Development;
- b) there are cultural concerns associated with the proposed Development;
- c) there are environmental concerns associated with the proposed Development;
- or
- d) there are other concerns associated with the proposed Development related to the Public Interest factors.

20. Public Interest Factors

20.1 All decisions under this Law must be made in accordance with the Public Interest, and a Development Permit may only be issued if it is determined to be in the Public Interest which includes consideration of the following factors:

- a) adequacy of any Applicant-led public process or consultation with Members;
- b) adequacy of parking, access, and emergency access;
- c) adherence to the Housing Policy and other kwikwəłəm policies;
- d) adverse impacts to infrastructure;
- e) any non-compliance with kwikwəłəm Laws;
- f) burdens on existing community amenities;
- g) character of the activity proposed in relation to the character of the zone, relevant land use policy, neighbourhood, and the buildings already erected;
- h) urban design and architectural quality, including consistency with any relevant policies and guidelines;
- i) community amenity contributions proposed to offset the increased use of existing amenities and/or funds to kwikwəłəm for the development of community amenities;
- j) compatibility with the Nation's culture;
- k) compliance with the kwikwəłəm Land Use Plan and kwikwəłəm Laws and with relevant federal and provincial standards;
- l) conflicts with Development management or land use plans in progress;
- m) contribution to the economic, environmental, cultural, and community health of kwikwəłəm, Members, and the residents of kwikwəłəm Lands;
- n) conservation of property values;
- o) ensuring adequate stormwater management and drainage;
- p) environmental protection and enhancement;
- q) flooding and erosion measures;
- r) interference with the cultural activities of Members;
- s) impacts to the health, safety, convenience and welfare of Members and of residents, occupants and other persons who have a lawful interest in kwikwəłəm Lands;
- t) insurance requirements for the proposed Development;
- u) need for easements for public works infrastructure, servicing, and utilities within the area subject to the Application;
- v) need for a diversity of uses on the Nation's Lands, including different types of housing, the preservation and promotion of employment for Members, and the creation of new economic opportunities;
- w) need to upgrade infrastructure or for additional infrastructure;
- x) potential impacts on adjacent uses, owners, and occupants;

- y) protection and enhancement of cultural and heritage sites;
- z) traffic impacts and interference with the ability of Members and other residents of the Nation's Lands to travel to, from, and within the Nation's Lands;
- aa) impacts to viewsapes, access to sunlight, aesthetics, odor and pollution, including light, air, and other pollution, and other impacts to visual qualities;
- bb) any information provided and any approvals already granted by Council, including any terms or conditions, in relation to the same project or the same Parcel;
- cc) any other factors which may have an impact on the community or kwikwə́łəm Lands; and
- dd) anything else relevant in determining whether a Development Permit, if granted, will be in the best interest of the kwikwə́łəm community.

Applications for Minor Developments

21. Authorized Person Authority over Minor Developments

19.1 For Applications for a Minor Development the Authorized Person may:

- a) approve the Minor Development and issue a Development Permit where the Authorized Person is satisfied that the Minor Development is in the Public Interest;
- b) require the Applicant to provide additional information regarding the Minor Development;
- c) determine that the Minor Development must follow the process for a Regular Development; or
- d) reject the Application.

22. Minor Developments that Impact the Public Interest

21.1 The Authorized Person may determine that a Minor Development must follow the Application procedure for a Regular Development where the Authorized Person determines the Development may negatively impact the Public Interest following a consideration of the Public Interest factors.

23. Reconsideration of Minor Development

23.1 Where the Authorized Person rejects an Application for a Minor Development, the Applicant may appear before Council, at a date and time set by Council, and seek reconsideration of the decision in accordance with section 71 of this Law.

24. Terms and Conditions to Minor Development Permit

- 24.1 The Authorized Person may impose terms and conditions to a Development Permit for a Minor Development where the Authorized Person determines terms and conditions are required to meet the Public Interest, including where terms or conditions are required due to:
- a) technical considerations;
 - b) cultural concerns;
 - c) servicing considerations;
 - d) environmental concerns, or protection; or
 - e) there are other concerns related to the Public Interest factors.

Applications for Regular Developments

25. Incomplete Application

- 25.1 The Authorized Person may refuse to forward an Application for a Regular Development for further review or Council consideration if the Authorized Person determines that the Application is not complete, including:
- a) the Applicant has failed to provide material required by the Authorized Person;
 - b) the proposed Development does not conform to kwikwəłəm Laws, or other laws or regulations that apply to kwikwəłəm Lands;
 - c) the Applicant has not paid the required Fee; or
 - d) the Applicant has failed to comply with a provision of this Law.

26. Additional Materials for Subdivision Application

- 26.1 Where a proposed Development contemplates subdividing kwikwəłəm Land, the Authorized Person may require reports prepared by Relevant Qualified Professionals, including, but not limited to:
- a) profiles of every new proposed Highway, access, and intersection shown on a plan with topographical details;
 - b) contour plan of the Parcel proposed for subdivision;
 - c) a survey of existing natural resources, Watercourses, and trees on the Parcel(s) proposed for subdivision; and
 - d) other surveys or sketch plans or information the Authorized Person determines to be relevant.

27. Authorized Person to Refer Application

- 27.1 As soon as practicable after receiving the Fee and a complete Application under this Part, the Authorized Person will:
- a) circulate the Application and all relevant information and documentation within the kwikwəłəm administration for comment;
 - b) engage with relevant Consultants; and
 - c) if appropriate, refer aspects of the Application to relevant service providers.
- 27.2 For Applications for sub-divisions, multi-family structures, or other Development that increases density, the Authorized Person will consider the Public Interest factors and may consult with Members or other persons who will be affected by the proposed Development.
- 27.3 If directed by the Authorized Person, an Applicant must provide notice of the proposed Development to all potentially impacted Members or other persons as directed by the Authorized Person, including, as applicable, adjacent interest-holders, Members, and residents of kwikwəłəm Lands.

28. Community Consultation

- 28.1 Following consideration of the Public Interest factors, the Authorized Person may determine community consultation is required with:
- a) Members within a local area;
 - b) all Members;
 - c) other stakeholders; or
 - d) any combination of Members and stakeholders.
- 28.2 The Authorized Person will determine the process for community consultation, taking into account the Public Interest factors, which may include:
- a) posting signage at the kwikwəłəm community hall, kwikwəłəm administrative building, and the site of the proposed Development;
 - b) handouts, leaflets, or brochures for Members;
 - c) online or mail-in Member surveys;
 - d) a public forum; or
 - e) any other consultation that the Authorized Person determines is required for the proposed Development.

28.3 Prior to undertaking any community engagement, the Applicant must meet with the Authorized Person and follow any direction from the Authorized Person regarding the form, timing and methods of the community engagement required.

28.4 An Applicant is solely responsible for all expenses related to community consultation under this Law. The Authorized Person may require an Applicant to provide a deposit to cover any costs the Authorized Person anticipates *kʷikwəłəm* incurring in relation to community consultation where the Authorized Person determines:

- a) guidance on community consultation is required from *kʷikwəłəm*;
- b) Consultants are required in relation to community consultation; or
- c) it is otherwise required in relation to the Public Interest.

29. Request for Additional Information

29.1 After reviewing any comments received from community consultation under section 28 of this Law, the Authorized Person may request additional information, plans, reports, or other relevant material from the Applicant.

30. Advisory Committee

30.1 The Authorized Person may direct that the Application go to the Advisory Committee for review, where the Authorized Person determines this is in the Public Interest.

30.2 Where the Advisory Committee reviews an Application, they may make any recommendations on the Application including how to address the Public Interest, and these recommendations will be provided to Council.

Application Decision

31. Authority

31.1 The decision to approve a Regular Development rests solely with Council, and Council may reject an Application that it determines is not in the Public Interest, including a Regular Development that the Nation's administration, Consultants, or the Authorized Person recommends be approved.

32. Application Referred to Council

32.1 The Authorized Person will refer the Application package to Council once they are satisfied that they have received all information relevant to the Development including:

- a) the results of any community consultation;
- b) any comments or recommendations from the Authorized Person and *kʷikwəłəm* administration;
- c) any comments from relevant service providers;
- d) any information from Consultants;
- e) all technical reports and plans; and
- f) any other requested information relevant to the Development.

32.2 When referring the Application to Council, the Authorized Person may make any relevant recommendations including as to:

- a) Planning:
 - i. any recommendation relating to the Public Interest factors;
 - ii. whether there should be bonds posted or irrevocable letters of credit and, if so, in what percentage or what amount;
 - iii. dedication of up to five per cent (5%) of the area of the land for parks, greenspace or community use or a cash donation in lieu;
 - iv. preferred lot reconfiguration to ensure viable subdivisions; and
- b) Pre-Construction:
 - i. provision of updated plans, reports or studies;
 - ii. requirements for staging or sequencing of the Development including requirements for interim reports;
 - iii. set-backs or buffers including set-backs or buffers from property lines and environmental features;
 - iv. mitigation measures for flood plain requirements;
 - v. noise and dust prevention or mitigation measures such as erosion and sediment control plans; and
- c) Construction:
 - i. provision of updated plans, reports or studies, including as-built drawings after the completion of the Development;
 - ii. construction of intersections, access and emergency access routes;
 - iii. construction of parking spaces;

- iv. construction of sidewalks;
- v. purchase and installation of street lights;
- vi. purchase and installation of fire hydrants or other fire suppression systems;
- vii. form and character of design; and
- viii. any other relevant terms or conditions.

33. Report to Council

- 33.1 Council will follow its procedure established for consideration of an Application for a Development Permit, including any requirements under *kʷikwəłəm* Laws which may include:
- a) staff report to Council;
 - b) preliminary consideration by Council;
 - c) further consideration by Council;
 - d) consideration at a meeting of Members;
 - e) vote by Members; and
 - f) final decision by Council.

34. Council Decision

- 34.1 After considering the Application, Council may:
- a) approve the Application and issue a Development Permit with any terms or conditions, including, but not limited to, terms or conditions relating to the Public Interest;
 - b) require the Applicant provide additional information or conduct additional work, such as additional community consultation, related to the Development, including with respect to the Public Interest; or
 - c) reject the Application with reasons.

35. Applicant Must Provide Additional Information

- 35.1 If Council requests additional information or additional work under subsection 34.1b) of this Law, then the Applicant must provide the requested information within the time established by Council, acting reasonably.

36. Application May Require Additional Engagement

- 36.1 Where Council requests additional information under section 34.1b) of this Law, Council may direct the Applicant to provide the new information to the Advisory Committee for its comments, or to engage in additional community consultation under section 28 of this Law.

37. No Reapplication until Reasons Addressed

37.1 If an Application is rejected with reasons under section 34.1c) of this Law, the Applicant may not reapply until the Applicant has addressed any deficiencies or concerns set out in the reasons.

38. Heritage and Sacred Lands

38.1 In the event lands subject to an Application occurs on heritage land or sacred lands, an archeological or heritage assessment is required and the Authorized Person or Council may ask for recommendations and advice from knowledge holder, Elders, or cultural advisors.

38.2 Despite subsection 38.1, an archaeological or heritage assessment is not required for construction of single-family homes for kwikwəłəm Members unless the Authorized Person or Council determines that it is in the Public Interest, in which case this will be directed in writing by the Authorized Person or Council.

39. Community Amenities

39.1 In considering whether proposed Development is in the Public Interest, Council may consider an Applicant providing the Nation a cash or in-kind contribution towards community amenities, which may include contributions to kwikwəłəm programs or facilities for Elders, youth, Members, culture, or related projects or initiatives.

40. Waiver of Minor Requirements

40.1 Council, in their sole discretion, may reduce or waive minor requirements for Applications or approvals under this Law, in writing, provided the discretion is exercised:

- a) in accordance with kwikwəłəm Laws;
- b) in the Public Interests; and
- c) in a manner that contributes to the economic, environmental, cultural, and community health of kwikwəłəm, its Members, and the residents of kwikwəłəm Lands.

41. Council may impose Terms and Condition to Development

41.1 Without limitation, Council may impose any terms or conditions to a Development Permit that Council determines are necessary, including to protect the Public

Interest following consideration of the Public Interest factors, including insurance requirements.

42. Parkland Dedication or Payment in Lieu

42.1 Council may impose as a condition to a Development Permit that the Applicant must:

- a) provide, without compensation, land to kwikwəłəm up to five percent (5%) of the area subject to the Application, in a location acceptable to kwikwəłəm, for park land, greenspace, trails, protected or cultural areas; or
- b) the Applicant make a payment to kwikwəłəm in lieu of a dedication under section 41.1a) in an amount that is:
 - i. equal to the fair market value of the land required under paragraph 41.1a) of this Law based on the average fair market value of the land in the proposed Development;
 - ii. calculated within ninety (90) days before the Development Permit is issued; and
 - iii. assessed as if the land was fully serviced and, if applicable, rezoned for the Development.

42.2 Parkland dedication and payment-in-lieu may be applied separately or used in combination with one another.

43. Fair Market Value

43.1 Notwithstanding section 42.1b) of this Law, if Council and the Applicant agree on a value for the land to represent the fair market value required in section 42.1b) of this Law the value on which the parties have agreed will be deemed the fair market value for paragraph 42.1b) of this Law.

44. Waterfront

44.1 Where an Applicant proposes Development of land that adjoins or is adjacent to a Watercourse, Council may include a condition to the Development Permit that requires the Applicant to convey to the Nation, without compensation, an easement, covenant, or strip of land along the bank or shore for the purpose of access for maintenance and environmental protection.

PART 7 – WORKS AND SERVICES

45. Works and Services

45.1 As a condition of approving a Development, Council may require an Applicant to:

- a) construct, install, or upgrade Works and Services and other infrastructure as required;
- b) landscape, provide Replacement Trees, or maintain trees, shrubs, hedges, or other natural features;
- c) provide security in accordance with section 52 to ensure ongoing maintenance of any Works and Services Required by Council;
- d) enter into a Works and Services Agreement; and
- e) provide proof of insurance in the types and amount determined by *kʷikwəłəm*, with *kʷikwəłəm* as an additional named insured.

46. Works and Services Specifications set by Council

46.1 Council may require that all Works and Services are:

- a) connected to all Parcels created by the Development;
- b) extended throughout the Development;
- c) extended along all Highways adjacent to the Development up to the centerline of the Highway;
- d) connected to the relevant public utility; and
- e) constructed to allow for connection to lands and systems beyond the proposed Development.

47. Waiver of Servicing Requirements

47.1 The servicing provisions under this Law may be waived by Council where the land is being developed for the purpose of creating Parcels required for the installation of public facilities, utilities, structures, or associated equipment.

48. Standards

48.1 Works and Services must be provided, constructed, installed and maintained in accordance with:

- a) MMCD Standards, as may be amended by *kʷikwəłəm*;
- b) Building Standards;
- c) standards set out in a Works and Services Agreement;

- d) Engineering Standards; and
- e) any other kʷikwəłəm standards, including standards developed by Consultants.

49. Conflict

- 49.1 In case of a conflict between the provisions of this Law and the MMCD Standards, the provisions in this Law will take precedence.

PART 8 – TEMPORARY USE PERMIT

50. Issuing Temporary Use Permit

- 50.1 Council may issue a Temporary Use Permit incidental to Development.

51. Conditions of Temporary Use Permit

- 51.1 Every Temporary Use Permit will be subject to the following conditions:
- a) the Applicant has submitted an Application;
 - b) there will be no changes in land uses for the Temporary Use Permit; and
 - c) the use or structure will not create a significant disturbance or nuisance to neighbouring Parcels.
- 51.2 Council may elect to make a Temporary Use Permit subject to additional terms and conditions.

PART 9 – WARRANTY AND MAINTENANCE

52. Letter of Credit

- 52.1 All Applicants for Regular Developments must deposit with their Application an irrevocable letter of credit as security in the amount calculated by Council to be 125% of all Works and Services, landscaping or other requirements.

53. Applicant Responsible for Costs

- 53.1 All Applicants for Regular Developments are solely responsible for the costs of operation, maintenance, repairs and if necessary, replacement of Works and Services, landscaping and any other requirements under this Law, including the terms and conditions to a Development Permit, for the Warranty Period.

54. Use of Security to Correct Non-Compliance

- 54.1 If the Applicant fails to meet any of its obligations under this Law, including any terms or conditions to a Development Permit, kwikwəłəm may draw on the security as necessary to cover the associated costs and may, at the Applicant's expense, undertake the work necessary to correct the non-compliance.

55. Disputes related to the Development

- 55.1 An Applicant must ensure kwikwəłəm is not negatively impacted by disputes related to the Development, including with respect to wages or fees for employees, agents, or contractors. Without limitation, kwikwəłəm may retain and draw upon the security where kwikwəłəm stands to be negatively impacted by any dispute related to the Development, including unpaid wages for contractors.

56. Return of Letter of Credit

- 56.1 kwikwəłəm will return the security or any unused amounts to the Applicant after the Warranty Period if kwikwəłəm, in consultation with any Consultant, is satisfied that the Applicant has met all its obligations.

57. Member Exemption

- 57.1 Notwithstanding any other provision herein, Council may waive any security requirements or Fees payable under this Law for a Member applying to construct a home for their personal or family residence, where Council does not believe the Development will negatively impact the Public Interest.

PART 10 – AUTHORITY TO ENTER AND INSPECT

58. Entry onto Site

- 58.1 The Authorized Person and Consultants may enter onto any site subject to a Development Permit to inspect and verify compliance with this Law or any terms or conditions to a Development Permit.

59. No Obstruction

- 59.1 No person will prevent or obstruct authorized entry by the Authorized Person or Consultants carrying out their duties under this Law.

PART 11 – REGULATIONS

60. Regulations

- 60.1 Council may make any regulations it considers necessary or advisable for purposes under this Law in accordance with the process set out in the Land Code.

PART 12 – OFFENCES, PENALTIES AND ENFORCEMENT

61. Violation Notice

- 61.1 In the event an Applicant is in violation of this Law or terms or conditions to a Development Permit, the Authorized Person may provide the Applicant notice to remedy the violation within thirty (30) days or in the case of hazard or other urgent situation, any other such time as the Authorized Person deems appropriate, acting reasonably.

62. Revocation of Development Permit

- 62.1 If the Applicant does not remedy the contravention in accordance with the violation notice, then the Authorized Person may revoke the Applicant's Development Permit.

63. Enforcement through Civil Proceeding

- 63.1 kwikwəłəm may, by a proceeding brought in a court of competent jurisdiction, enforce, or prevent or restrain the contravention of a provision of this Law or a regulation made under this Law, including by means of injunction.

64. Issuance of Tickets

- 64.1 The Authorized Person or an Enforcement Officer may issue a ticket to any person who violates, or who neglects or refrains from doing anything required by a provision of this Law or who consents, allows or permits an act or thing to be done in violation of a provision of this Law.

65. Ticket Amounts

- 65.1 Tickets issued in accordance with section 64 will be issued in the following amounts:
- a) \$1,000 for undertaking any activity requiring a Development Permit, without a Development Permit;
 - b) \$1,000 for violating any terms or conditions of a Development Permit; and

- c) \$1,000 for violating a Stop Work Order; or
- d) \$1,000 for anything else contrary to the provisions of this Law.

66. Continuing Offence

66.1 Each day that a violation continues or exists under this Law represents a continuing and separate offence.

67. Summary Conviction

67.1 A person who contravenes or permits another person to contravene anything required under this Law is guilty of an offence and is liable for:

- a) a maximum fine up to \$10,000; and
- b) imprisonment for not more than six (6) months.

67.2 A person who contravenes any Environmental Requirements pursuant to this Law, including any terms and conditions to a Development Permit, is guilty of an offence and is liable for:

- a) a maximum fine of up to \$1,000,000; and
- b) imprisonment for not more than six months.

67.3 A fine payable under subsection 67.1 or 67.2 is to be remitted to the kwikwəłəm First Nation by the Court, after reasonable Court costs have been deducted.

68. Rights and Remedies are Cumulative

68.1 The rights and remedies available to enforce provisions of this Law are not mutually exclusive and may be exercised independently or in combination.

69. Stop Work Orders

69.1 In addition to any other applicable fine, penalty or remedy, Council, the Authorized Person 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 Development activities or related activities or uses; and
- b) order any structures, works, or installations carried out in violation of this Law or a Stop Work Order to be removed within thirty (30) days, failing which Council may order them to be removed at the expense of the Applicant.

69.2 Stop Work Order imposed under subsection 69.1 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.

70. Reconsideration of Stop Work Order

70.1 A person subject to a Stop Work Order has the right to appear before Council for reconsideration, in accordance with the process for reconsideration set out at section 71.

PART 13 – RECONSIDERATION

71. Reconsideration

71.1 A Person may seek to appear before Council for a reconsideration of a decision under this Law.

71.2 A Person seeking reconsideration must:

- a) within thirty (30) days of the decision, submit a letter to Council setting out the grounds on which the Person requests Council to reconsider the decision; and
- b) provide any other relevant information to Council.

71.3 The Authorized Person may also appear before Council to answer questions and make submissions.

72. Reconsideration Decision

72.1 Upon reconsideration by Council pursuant to section 71, Council may make any decision it determines advisable.

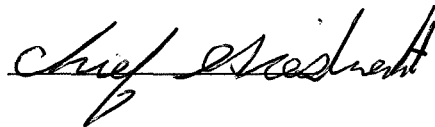
PART 14 – COMING INTO FORCE

73. Date Law Comes into Force

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

BE IT KNOWN that this Law entitled *kʷikwəłəm Subdivision, Servicing and Development Law* is hereby enacted by a quorum of Council at a duly convened Council of the *kʷikwəłəm* First Nation held on the 17th day of April, 2024.

Chief Ron Giesbrecht



Councillor George Chaffee



Councillor John Peters

