

SONGHEES NATION
SUBDIVISION, DEVELOPMENT, AND SERVICING LAW

DRAFT

January X, 2023

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WHEREAS

- A. The authority of the Nation to govern its land and resources flows from its inherent right of self-government and its rights, including Aboriginal title and those rights defined in the Douglas Treaties;
- B. The Nation has jurisdiction and authority over the Nation's Lands and resources and has enacted the *Songhees Nation Land Code* dated for reference January 27, 2011;
- C. The Nation has authority under the Land Code to make laws in relation to the Nation's Lands including for the development, conservation, protection, management, use and possession of the Nation's Land, the authorization and regulation of subdivisions, in relation to nuisance, the setting aside of parklands, protection of archeological and cultural resources, public works, the provision of services, and enforcement; and
- D. Songhees Council believes it is in the best interest of the Nation to enact a law addressing subdivision, development, and servicing.

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

1. GENERAL PROVISIONS

1.1 Name

This law may be cited as the *Songhees Nation Subdivision, Development, and Servicing Law*.

1.2 Purpose

The purpose of this SDS Law is to promote environmentally sustainable, healthy, safe, culturally appropriate and well-planned use of the Nation's Lands.

2. APPLICATION OF THIS SDS LAW

2.1 Application to all of the Nation's Lands

This SDS Law applies to all of the Nation's Lands as defined in the Land Code.

2.2 Inconsistency or conflict with Land Code

If there is any inconsistency or conflict between this SDS Law and the Land Code, the Land Code will prevail to the extent of the inconsistency or conflict.

3. INTERPRETATION

3.1 Accordance with Land Code

Words and expressions used in this SDS Law have the same definitions as in the Land Code.

3.2 Definitions

In this SDS Law:

- (a) “**Accessory Building**” means a building of secondary use on a Parcel, including a coach house or laneway house;
- (b) “**Applicant**” means a developer, contractor, agent, or any other person seeking to undertake Development in accordance with this SDS Law;
- (c) “**Application**” means an application for a Development Permit under this SDS Law;
- (d) “**Authorized Person**” means the Songhees Land Manager, the Director of Lands and Environment, or their designate;
- (e) “**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 Fire Code, BC Gas Code and other relevant codes and enactments;
- (f) “**Consultant**” means any Person contracted or employed by Songhees to provide professional guidance related to Development in relation to this SDS 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 SDS Law.
- (g) “**Council**” means the duly elected members of Songhees Chief and Council;
- (h) “**Development**” means the activities set out at section 4.2 of this SDS Law;
- (i) “**Development Permit**” means a permit issued in accordance with this SDS Law that authorizes Development;
- (j) “**Diameter at Breast Height**” 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;
- (k) “**Enforcement Officer**” means any member of the RCMP, a peace officer or any person or persons appointed by Council to administer and enforce Songhees laws including this SDS Law, and includes any delegate;
- (l) “**Highway**” means and includes a street, road, lane, walkway, bridge, viaduct, and any other way open to public use but does not include private easements on private property;

- (m) **“Lands Advisory Committee”** means the lands advisory committee established under the Land Code;
- (n) **“Land Code”** means the *Songhees Nation Land Code*;
- (o) **“Major Development”** means any Development that is not a Minor Development;
- (p) **“Members”** means Songhees Nation members;
- (q) **“Minor Developments”** means constructing, installing, demolishing, or legalizing:
 - (i) an Accessory Building;
 - (ii) any structure, including on wheels, intended or used for residency;
 - (iii) any structure, including on wheels, that will connect to Works and Services;
 - (iv) more than 3 trailers on a Parcel;
 - (v) a garage;
 - (vi) a treehouse;
 - (vii) an awning, canopy, or patio cover;
 - (viii) a deck, balcony, or gazebo;
 - (ix) replacement of a mobile home within an existing mobile home park with no expansion of the footprint of the mobile home;
 - (x) a road within a strata development;
 - (xi) a retaining wall;
 - (xii) a secondary suite within a single-family dwelling;
 - (xiii) a swimming pool or hot tub; or
 - (xiv) the alteration or renovation of any building that is consistent with the existing zoning.
- (r) **“MMCD Standards”** means the Master Municipal Construction Documents Standard Detailed Drawings and Master Municipal Construction Documents Specifications and Master Municipal Construction Documents Design Guidelines;
- (s) **“Nation’s Lands”** means the whole of the (Deadman’s) Halkett Island No. 2 (No. 09082), Chatham Islands 4 (No. 06841), Discovery Island 3 (No. 06840), and New Songhees 1A (No. 06839), 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;
- (t) **“Parcel”** means a lot, block, or other area in which land is held, or into which land is

- legally subdivided;
- (u) **“Person”** means any natural person, corporation, and, except where stated otherwise, any person who is a Member;
 - (v) **“Protected Tree”** means:
 - (i) any tree with a Diameter at Breast Height of thirty (30) cm 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 as defined in the or the nest of an eagle, peregrine falcon, gyrfalcon, osprey, heron or burrowing owl;
 - (iv) an Arbutus (*Arbutus menziesii*), Garry Oak (*Quercus garryana*), or Pacific Dogwood (*Cornus nutalii*) at least 50 cm in height.
 - (w) **“Public Interest”** means the best interest of Songhees, which, in the context of Development, is informed by consideration of the factors set out in section 5.1 of this SDS Law;
 - (x) **“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; or
 - (vii) other professional relevant to activities under this SDS Law.
 - (y) **“Relevant Qualified Professional”** means a Qualified Professional qualified in the area relevant to the activity prescribed under this SDS Law;
 - (z) **“Replacement Tree”** means a tree required in accordance with this SDS Law, to replace a tree cut, removed, or damaged in relation to Development;
 - (aa) **“SDS Law”** means this Songhees Nation Subdivision, Development, and Servicing Law;
 - (bb) **“Songhees Nation” “Songhees” or “Nation”** is a First Nation with Aboriginal rights and Title protected under section 35 of the *Constitution Act, 1982* and a “band” within the meaning of the *Indian Act*, RSC 1985, c. I-5, and are descendants of the Lək̓ʷəŋən speaking people, who are Indigenous Coast Salish people who reside on southeastern Vancouver Island;

- (cc) **“Songhees Law”** means any enactment by the Nation or validly passed Band Council Resolution, including laws, bylaws, or regulations.
- (dd) **“Stop Work Order”** means an order issued pursuant to section 20.2 of this SDS Law that requires all Development and any related activities to be stopped, except for any activities specifically permitted under the Stop Work Order.
- (ee) **“Temporary Use Permit”** means a permit under section 17 of this SDS Law;
- (ff) **“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;
- (gg) **“Warranty Period”** is the period of time where 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 18.2 of this SDS Law.
- (hh) **“Works and Services”** means the services, facilities or utilities on the Nation’s 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;
- (ii) **“Works and Services Agreement”** means an agreement between Songhees and an Applicant that set out the terms and conditions of the provision of Work and Services; and
- (jj) **“Zoning Bylaw”** means the Songhees First Nation Zoning By-law, 2001-11.

3.3 Plurals and Reference to Gender

Words importing the singular include the plural and vice versa and words importing gender include all genders.

3.4 Headings

Headings have been inserted for convenience and for reference only and in no way define or limit any of its provisions.

3.5 Section References

Unless otherwise specified, references in this SDS Law to sections and schedules are to sections of and schedules to this SDS Law.

3.6 Statutory References

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

3.7 No limitation

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

3.8 Time

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

3.9 Severability

In the event that all or any part of any sections or sections of this SDS Law are found by a court of competent jurisdiction to be invalid, such sections will be severable, and the remaining portions or sections will remain in full force and effect.

3.10 Currency

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 SDS Law.

4. DEVELOPMENT

4.1 Applicable Standards

All Development must be done in accordance with this Law and all applicable Songhees' laws, bylaws, standards, Band Council Resolutions, policies, and guidelines.

4.2 Prohibitions

None of the following activities ("**Development**") are permitted within the Nation's Lands except in strict conformity with a Development Permit issued in accordance with the requirements of this Law and any other applicable laws:

- (a) construction, alteration, 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 or Development;
- (c) deposit or removal of more than ten (10) cubic metres of soil, gravel or other material;
- (d) drilling, blasting, or related activities;
- (e) installation of mobile homes;
- (f) installation of any temporary structures for longer than 8 months;
- (g) installation of Highways, intersections, sewer, water, and other infrastructure;
- (h) site-preparation activities, including pouring foundation;

- (i) activities that involve any impact, changes or alterations to connections to Works and Services;
- (j) construction of a Highway, including a sidewalk, lane, intersection or driveway, that encroaches onto a Highway or sidewalk;
- (k) stratification or other division of legal interests in the Nation's Lands or structures into strata units, sub-leases, or shares;
- (l) subdivision or partitioning of the Nation's Lands; and
- (m) other activities, uses, or matters prescribed by Songhees regulation.

4.3 Exempted Activities

Notwithstanding sections 4.2 of this Law, the following activities do not require any approvals under this Law provided they conform to the Building Standards and are in compliance with all applicable laws:

- (a) work undertaken by and under the authority and direction of Songhees;
- (b) repairs or renovations of buildings that do not involve structural alterations;
- (c) construction or finishing of internal driveways or trails for single family residential sites on which the internal driveway or trail is completely within a single Parcel;
- (d) the construction or placing of tool sheds, construction shacks, scaffolding or similar temporary building or structure, intended solely to serve a development or activity that is being carried out in compliance with this SDS Law, and located on the same site or on an adjoining Parcel.
- (e) landscaping and minor yard work not requiring excavation deeper than one and a half (1.5) metres or the removal or deposit of more than ten (10) cubic metres of soil, gravel, or other material; and
- (f) installation of up to 3 trailers for storage or other non-residential uses provided such trailers have no hook-ups or connections to Works and Services.

4.4 Songhees Law

An Application must meet all applicable requirements under Songhees Law, including the Land Code, Zoning Bylaw and this Law. The issuance of a Development Permit does not replace or circumscribe any other approvals required by Songhees.

4.5 Concurrent re-Zoning Applications

An Applicant may apply for approvals under this Law concurrently with a re-zoning application under the Zoning Bylaw. In the case of concurrent applications:

- (a) all fees payable under both the Zoning Bylaw and this Law are due at the time of Application; and
- (b) the Applicant is required to provide complete applications under both the Zoning Bylaw and this SDS Law.

5. PUBLIC INTEREST

5.1 Public Interest Factors

All decisions under this SDS 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 following 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) adverse impacts to infrastructure;
- (d) burdens on existing community amenities;
- (e) character of the activity proposed in relation to the character of the zone, relevant land use policy, neighbourhood, and the buildings already erected;
- (f) urban design and architectural quality, including consistency with any relevant policies and guidelines;
- (g) community amenity contributions proposed to offset the increased use of existing amenities;
- (h) compatibility with the Nation's culture;
- (i) conflicts with Development management plans in progress;
- (j) contribution to the economic, environmental, cultural, and community health of the Nation, Members, and the residents of the Nation's Lands;
- (k) ensuring adequate stormwater management and drainage;
- (l) environmental protection and enhancement;
- (m) flooding and erosion measures;
- (n) insurance requirements for the proposed Development;
- (o) interference with the cultural activities of Members;
- (p) Members' housing needs;
- (q) need for easements for public works infrastructure, servicing, and utilities within the area subject to the Application;

- (r) 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;
- (s) need to upgrade infrastructure or for additional infrastructure;
- (t) potential impacts on adjacent uses, owners, and occupants;
- (u) protection and enhancement of cultural and heritage sites;
- (v) impacts to Songhees wastewater capacity;
- (w) interference with the ability of Members and other residents of the Nation's Lands to travel to, from, and within the Nation's Lands including traffic impacts;
- (x) views, access to sunlight, aesthetics, pollution including light, air, and other pollution, and other impacts to visual qualities;
- (y) 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; and
- (z) anything else relevant in determining whether a Development Permit, if granted, will be in the Public Interest.

6. ADMINISTRATION

6.1 Administration

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

6.2 Application Stages

An Application for a Development Permit will be reviewed and processed in stages, generally in the following order:

- (a) Rezoning (if required under Songhees Law),
- (b) Subdivision,
- (c) Conceptual Plan,
- (d) Approval in Principle,
- (e) Development Permit,
- (f) Substantial Completion,
- (g) Inspection, and

- (h) Completion.

6.3 Pre-Application Meeting

All Applicants must attend a pre-Application meeting with the Authorized Person before submitting an Application.

6.4 Applicant Materials

The Authorized Person may require an Applicant to submit particular information as part of the Application, 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) survey plan;
- (j) servicing report;
- (k) municipal services assessment and management plan that identifies impacts from the Development on municipal services received by Songhees, including the capacity of wastewater allocated to Songhees by the Capital Regional District (CRD);
- (l) arborist report or tree inventory;
- (m) economic impact analysis;
- (n) profiles of any proposed road work, including topographical details;
- (o) rainwater (stormwater) management plan;
- (p) geotechnical report;
- (q) traffic study;
- (r) environmental assessment;

- (s) report by a professional engineer on the condition of existing infrastructure that may be impacted by the Development;
- (t) proof of valid interest in the Nation's Lands;
- (u) evidence of the ability to obtain insurance in the amount and types required by Songhees for the Development;
- (v) if the Applicant is not a CP holder, valid proof of consent from the CP holder to undertake the Development;
- (w) archaeological assessment report;
- (x) cultural impact report that considers how the Development may impact Songhees culture, including any proposals to support and enhance Songhees culture;
- (y) report detailing compliance with the Building Standards;
- (z) complete Songhees Application Checklist; and
- (aa) any other information the Authorized Person determines is required to assess the Application.

6.5 Request for Additional Information

The Authorized Person may:

- (a) require the Applicant provide any additional information the Authorized Person determines would be useful to consider the Public Interest factors; and
- (b) provide direction for how the Applicant may address the Public Interest factors.

6.6 Application Material

An Applicant must ensure that all information required by the Authorized Person for an Application, including under section 6.4, is satisfactory to the Authorized Person and the Authorized Person has no obligation to advance any Application until such time as they are satisfied with the Application material.

6.7 Complete Application

The Authorized Person may determine that a Minor Development must follow the Application procedure for a Major Development where the Authorized Person determines the Development may negatively impact the Public Interest following a consideration of the Public Interest factors. Upon receiving an Application and relevant information, the Authorized Person will confirm if the Application must follow the process for a Minor Development or a Major Development.

7. MINOR DEVELOPMENTS

7.1 Authorized Person Authority over Minor Developments

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 Major Development or
- (d) reject the Application.

7.2 Development Must Be in the Public Interest

The Authorized Person may only approve Development where the Authorized Person has determined that the Development will not negatively impact the Public Interest following consideration of the Public Interest factors.

7.3 Minor Developments Impacting the Public Interest

The Authorized Person may determine that it is in the Public Interest for an Application for a Minor Development to follow the process for a Major Development where the Authorized Person determines that the Minor Development may negatively impact the Public Interest following a consideration of the Public Interest factors, and if the Authorized Person has made such a determination, then the Application will follow the process for a Major Development.

7.4 Reconsideration of Minor Development

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 21 of this SDS Law.

7.5 Application Fee for Developments

An Applicant must pay the relevant Application fee set by Songhees.

7.6 Minor Development Costs

The Authorized Person may require an Applicant for a Minor Development to pay or reimburse Songhees for costs, including Consultant costs, associated with Songhees' 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.

8. TERMS AND CONDITIONS TO MINOR DEVELOPMENT PERMIT

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 condition are required due to:

- (a) technical concerns;
- (b) cultural concerns;
- (c) environmental concerns; or
- (d) there are other concerns related to the Public Interest factors.

9. MAJOR DEVELOPMENTS

9.1 Songhees Application Process for Major Development

An Application for a Major Development must:

- (a) include all application materials required under section 6.4;
- (b) be accompanied by the appropriate Application fee; and
- (c) be accompanied by such other information Songhees requires to evaluate Major Development Applications.

9.2 Incomplete Application

The Authorized Person may refuse to forward an Application for a Major development for further review or Council consideration if the Authorized Person determines that:

- (a) the Application is not complete;
- (b) the Applicant has failed to provide material required by the Authorized Person or Consultants;
- (c) the proposed Development does not conform to Songhees' laws, bylaw, regulations, or policies, or other laws or regulations that apply to the Nation's Lands;
- (d) the Applicant has not paid the required Application fee; or
- (e) the Applicant has failed to comply with a provision of this SDS Law.

9.3 Additional Materials for Subdivision Application

Where a proposed Development contemplates subdividing the Nation's Land, the Authorized Person may require:

- (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, water course, 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.

9.4 Applicant Responsible for Songhees Costs

An Applicant for a Major Development must pay or reimburse Songhees for costs incurred by Songhees to review the Application, including costs associated with any Consultants retained to support Songhees' review of the Application.

10. LANDS ADVISORY COMMITTEE

10.1 Lands Advisory Committee Review

The Lands Advisory Committee will review Applications for Major Development and may provide comments to the Authorized Person about:

- (a) whether the Application should be approved or rejected; and
- (b) conditions Council may consider if the Lands Advisory Committee determines that the Application should be approved.

10.2 Lands Advisory Committee Recommendation

When providing comments under section 10.1 of this SDS Law, the Lands Advisory Committee may make any recommendations including with respect to the Public Interest factors.

11. COMMUNITY CONSULTATION

11.1 Authority to Require Consultation

The Authorized Person may require the Applicant to undertake community consultation regarding a proposed Major Development where the Authorized Person determines this to be in the Public Interest.

11.2 Consultation with Members

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.

11.3 Depth of Consultation

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 Songhees Wellness Centre 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 Lands Advisory Committee or the Authorized Person determines is required for the proposed Development.

11.4 Community Notice

For Applications for Development that may increase density, an Applicant must provide notice of the proposed Development to all potentially impacted persons as determined and directed by the Authorized Person, including, as applicable, adjacent interest-holders, Members, and residents of the Nation's Lands.

11.5 Consultation Costs

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

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

11.6 Request for Additional Information

After reviewing the recommendations from the Lands Advisory Committee and any comments received from community consultation under section 11 of this SDS Law, the Authorized Person may request additional information, plans, reports, or other relevant material from the Applicant.

12. RECOMMENDATIONS TO COUNCIL

12.1 Council Decision

The decision to approve a Major Development rests solely with Council, and Council may reject an Application that it determines is not in the Public Interest, including a Major Development that the Lands Advisory Committee, the Nation's administration, Consultants, or the Authorized

Person recommends be approved.

12.2 Application Referred to Council

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) comments or recommendations from the Lands Advisory Committee;
- (b) any comments or recommendations from the Authorized Person and Songhees administration;
- (c) the results of any community consultation;
- (d) any information from Consultants;
- (e) all technical reports and plans; and
- (f) any other requested information relevant to the Development.

13. COUNCIL PROCESS

13.1 Report to Council

Council will follow its procedure established for consideration of an Application for a Development Permit, including any requirements under the Zoning Law or Land Code, 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 approval by Council.

13.2 Decision by Council

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 including studies and reports 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.

13.3 Community Amenities

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 Songhees for programs or facilities for Elders, youth, Members, culture, or related projects or initiatives.

13.4 Applicant Must Provide Additional Information

If Council requests additional information, including studies or report or additional work under section 13.2(b) of this Law, then the Applicant must provide the requested information within the time established by Council acting reasonably.

13.5 Application May Require Additional Engagement

Where Council requests additional information under section 13.2(b) of this SDS Law, Council may direct the Applicant to provide the new information to the Lands Advisory Committee for its comments, or to engage in additional Community Consultation under section 11 of this SDS Law.

13.6 No Reapplication until Reasons Addressed

If an Application is rejected with reasons under section 13.2(c) of this SDS Law, the Applicant may not reapply until the Applicant has addressed any deficiencies or concerns set out in the reasons.

13.7 Waiver of Minor Requirements

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

- (a) in accordance with the Nation's laws, bylaws, policies, and regulations; and
- (b) in a manner that contributes to the economic, environmental, cultural, and community health of the Nation, its Members, and the residents of the Nation's Lands.

14. TERMS AND CONDITIONS

14.1 Council may impose Terms and Condition to Development

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.

14.2 Parkland Dedication or Payment in Lieu

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

- (a) provide, without compensation, land to the Nation up to five percent (5%) of the area subject to the Application, in a location acceptable to the Nation, for park land, greenspace, trails, protected or cultural areas; or
- (b) the Applicant make a payment to the Nation in lieu of a dedication under 14.2(a) in an amount that is:
 - (i) equal to the fair market value of the land required under section 14.2(a) of this SDS Law based on the average fair market value of the land in the proposed Development as determined by Songhees;
 - (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.

14.3 Fair Market Value

If Council and the Applicant agree on a value for the land to represent the fair market value required in section 14.2(b) of this SDS Law the value on which the parties have agreed will be deemed the fair market value for section 14.2(b) of this SDS Law.

14.4 Issuing Parkland Dedication or Payment in Lieu

Parkland dedication and payment-in-lieu may be applied separately or used in combination with one another, as acceptable to Songhees.

14.5 Waterfront

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 of environmental protection.

14.6 Expiry of Development Permit

Every Development Permit is issued upon the condition that the Development Permit will expire and all rights under the Development Permit will terminate if:

- (a) work authorized by the Development Permit is not started within 12 months from the date of issuance of the development Permit;
- (b) work is discontinued for a period of 12 months;
- (c) work has not been substantially completed within 24 months from the date of the issuance of the Development Permit; or

- (d) there is a proposed transfer of the Development project or the land to which the Development Permit is issued.

14.7 Extension and Renewal

Where a Development Permit has expired:

- (a) an Applicant may reapply for a Development Permit based on any work that was not completed under the previous Development Permit and the requirements in this SDS Law will be based on the work that remains to be completed; and
- (b) the Authorized Person may extend the periods of time set out under section 14.6 where they determine that construction has not been commenced or has been discontinued due to circumstances beyond the control of the Applicant, including adverse weather events, strikes, material or labour shortages, or government regulation. The maximum period of an extension is twelve months; and

14.8 Expiry and Re-Application

Expired Development Permits, without extension, will be subject to a new application process, should the permit holder wish to continue work. The new application process will be subject to any and all changes to Regulations, Bylaws, or Codes in affect at the time of the new application.

15. WORKS AND SERVICES

15.1 Works and Services

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 a maintenance and management plan for Works and Services, acceptable to the Authorized Person and any Consultants;
- (d) provide security in accordance with section 18 to ensure ongoing maintenance of any Works and Services Required by Council;
- (e) enter into a Works and Services Agreement; and
- (f) provide proof of insurance in the types and amounts determined by Songhees, with Songhees as an additional named insured.

15.2 Works and Services Specifications set by Council

Council may require that all Works and Services are:

- (a) connected to all Parcels created by the Development;

- (b) extended along all Highways within 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.

15.3 Waiver of Servicing Requirements

The servicing provisions under this SDS 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.

15.4 Standards

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

- (a) MMCD Standards, as may be amended by Songhees;
- (b) Building Standards;
- (c) standards set out in a Works and Services Agreement; and
- (d) any other Songhees standards, including standards developed by Consultants.

15.5 Costs for Works and Services

An Applicant is solely responsible for the costs of all Works and Services required to serve a Development, including the costs associated with a Consultant inspecting and reporting on such Works and Services.

15.6 Conflicting Standards

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

16. WASTEWATER

16.1 Wastewater Capacity

Songhees must be satisfied that its wastewater capacity needs will not be negatively impacted by the Development, including wastewater capacity needs Songhees has identified for the Nation's present and future projects and Developments.

16.2 Additional Wastewater Capacity

Songhees may refuse to approve a Development if:

- (a) Songhees has determined in its sole and absolute discretion that approving the Development will result in a negative impact to Songhees wastewater capacity needs, including where Songhees has identified capacity needed for the Nation's future; or
- (b) Songhees has determined that additional wastewater capacity is needed due to the Development and it has not been demonstrated to Songhees satisfaction that additional wastewater capacity will be obtained.

16.3 Costs for Wastewater Capacity

The Applicant is responsible and must pay all costs associated with any additional wastewater capacity Songhees determines is required under the Capital Regional District (CRD) Bylaw No. 2312 "*Liquid Waste Management Core Area and Western Communities Service Establishment Bylaw No. 1, 1995*" due to the Development, including the costs of determining wastewater capacity needs, and all costs associated with working with local governments in connection with the additional wastewater capacity, including the CRD.

17. TEMPORARY USE PERMIT

17.1 Issuing Temporary Use Permit

Council may issue a Temporary Use Permit incidental to Development.

17.2 Conditions of Temporary Use Permit

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;
- (c) the use or structure will not create a significant disturbance or nuisance to neighbors;
and
- (d) the Applicant must provide a plan that is acceptable to the Authorized Person for removing any temporary structure and restoring the lands, at the sole cost of the Applicant, to a condition acceptable to the Authorized Person.

18. WARRANTY AND MAINTENANCE

18.1 Letter of Credit

All Applicants of Major 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.

18.2 Applicant Responsible for Costs

Major Development Applicants 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 SDS Law, including the terms and conditions to a Development Permit, for the Warranty Period, which is the period 12 months from the date the Authorized Person and any Consultants determines the Development is substantially completed.

18.3 Use of Security to Correct Non-Compliance

If the Applicant fails to meet any of its obligations under this SDS Law, including any terms or conditions to a Development Permit, the Nation 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.

18.4 Disputes related to the Development

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

18.5 Return of Letter of Credit

Songhees will return the security or any unused amounts to the Applicant after the Warranty Period if Songhees, in consultation with any Consultant, is satisfied that the Applicant has met all its obligations. Songhees is under no obligation to return the security until it is satisfied in its sole and absolute discretion that the Applicant has met all requirements with respect to a Development.

18.6 Member Exemption

Notwithstanding any other provision herein, Council may waive any fees payable under this SDS Law by a Songhees 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.

19. AUTHORITY TO ENTER AND INSPECT

19.1 Entry onto Site

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

19.2 No Obstruction

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

20. OFFENCES, PENALTIES, AND ENFORCEMENT

20.1 Violation Notice

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

18.2 Revocation of Development Permit

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.

20.2 Authorized Person may Issue Stop Work Order

In addition to any other applicable fine, penalty or remedy, the Authorized Person may issue a Stop Work Order to any person who has not received full and proper authorization under this SDS Law.

20.3 Reconsideration of Stop Work Order

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 21

20.4 Enforcement through Civil Proceeding

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

20.5 Issuance of Tickets

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

20.6 Ticket Amounts

Tickets issued in accordance with section 20.5 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.

20.7 Continuing Offence

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

20.8 Summary Conviction

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

- (a) a maximum fine up to \$5,000; and
- (b) imprisonment for not more than six (6) months.

20.9 Rights and Remedies are Cumulative

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

21. RECONSIDERATION

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

21.1 Requirement for Reconsideration:

A Person seeking reconsideration must:

- (a) within thirty calendar 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.

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

21.2 Reconsideration Decision

Upon reconsideration by Council pursuant to this section 21, Council may make any decision it determines advisable.

22. REGULATIONS

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

23. COMING INTO FORCE

This SDS Law comes into force and effect on the date it is enacted by Council.

RECEIVED FIRST READING on the 19th day of October 2022

RECEIVED SECOND READING on the 2nd day of November 2022

RECEIVED THIRD READING on the _____ day of _____ 2023

FINALLY ADOPTED on the _____ day of _____ 2023

NOW THEREFORE this Law is enacted at a duly convened meeting of the Council of Songhees Nation this _____ day of _____, 2023.

Chief Ronald Sam

Councillor Garry Albany

Councillor Jacqueline Albany

Councillor Margaret Charlie

Councillor Karen Dick-Tunkara

Councillor Norman Sam

Being the majority of the members of the Council of the Songhees Nation present at the aforesaid meeting of the Council.

The quorum of the Council: _____ members of the Council.

Number of Council members present at the meeting: ____