

4840717

7

06 SEP 1991 27333

BY-LAW NO. 1991.3
of the Millbrook Indian Band
By-law for the Regulation of the
Construction, Repair and Use of
Buildings on the Reserve

WHEREAS the Council of the Millbrook Indian Band desires to make a by-law regulating the construction, repair and use of buildings on the reserve; with respect to any matter arising out of or ancillary to the exercise of powers under Section 81, and the imposition of a penalty for the violation thereof;

AND WHEREAS the Council of the Millbrook Indian Band is empowered to make such by-law pursuant to paragraphs 81(1)(h), (q) and (r) of the Indian Act;

AND WHEREAS it is considered necessary for the safety of the inhabitants and the development of the reserve to provide for the regulation of the construction, repair and use of buildings on the reserve;

NOW THEREFORE the Council of the Millbrook Indian Band hereby makes the following by-law:

Short Title

1. This by-law may be cited as the "Millbrook Indian Band Building By-law".

Definitions

2. In this by-law,

"Band" means the Millbrook Indian Band;

"building" means any structure used or designed to be used for shelter, accommodation or enclosure of persons, animals or chattels;

"building inspector" means a person appointed by the Council under this by-law to enforce and carry out the provisions of this by-law;

"construction" means an erection, repair, alteration, addition or excavation;

"Council" means the Council of the Millbrook Indian Band;

"owner" means any person, firm or corporation who has possession of land or a building on the reserve;

"reserve" means the reserve of the Millbrook Indian Band and includes the Band's Reserves No. 27, 27A, 27B, 27C, 17, 30 and 36; and

"work" means any construction, demolition or removal.

Schedules

3. The following Schedules form part of this by-law:

Schedule "A"	-	Application for Building Permit
Schedule "B"	-	Building Permit/Variance Permit
Schedule "C"	-	Demolition Permit
Schedule "D"	-	Occupancy Permit
Schedule "E"	-	Permit Fees

Application

4. This by-law applies to the construction, demolition and occupation of any building, or part thereof, located on the reserve.

Requirement for Permit

5. (1) No person shall undertake construction of a building or authorize or allow construction of a building on the reserve unless he holds a valid and subsisting building permit issued by a building inspector pursuant to this by-law.
- (2) No person shall deviate from the approved plans and specifications forming part of a building permit or omit or fail to complete work required by the said plans and specifications unless that person has first obtained a variance permit from a building inspector pursuant to this by-law.
- (3) No person shall demolish or remove a building or authorize the demolition or the removal of a building on the reserve unless he holds a valid and subsisting demolition permit issued by a building inspector pursuant to this by-law.
- (4) No person shall occupy or allow the occupancy of any building or part thereof on the reserve, unless that person holds a valid and subsisting occupancy permit issued by a building inspector pursuant to this by-law.

Permits

6. (1) a building permit shall be in the form set out in Schedule "A".
- (2) A variance permit shall be in the same form as that set out in Schedule "B".
- (3) A demolition permit shall be in the form set out in Schedule "C".
- (4) An occupancy permit shall be in the form set out in Schedule "D".

Conditions of Permit

7. (1) It is a term and condition of every permit issued under this by-law that the standards and specifications contained in the National Building Code of Canada as amended from time to time, and the Nova Scotia Building Code as amended from time to time shall be complied with except as otherwise specified in this by-law.
- (2) It is a term and condition of every permit issued under this by-law that the permit holder is responsible for any damage caused to public or private property while undertaking work authorized under the permit.
- (3) It is a term and condition of every permit issued under this by-law that the permit shall be posted in a conspicuous place on the premises for which it is issued.

Building Inspector

8. (1) The Council may, by resolution, appoint one or more building inspectors, who shall be responsible for the administration and enforcement of this by-law.
- (2) The Council may, in the resolution, provide for reasonable remuneration to be paid to a building inspector.

Powers and Duties of the Building Inspector

9. (1) A building inspector shall
- (a) receive and deal with all applications for permits to be issued under this by-law;
 - (b) maintain a record of all applications for permits and retain on file a copy of all permits and orders issued, inspections and tests made, and of all papers and documents connected with the administration of this by-law for a period of not less than ten years from the date of issuance of the permit;
 - (c) Ascertain, as far as reasonably practical, that all information furnished by the applicant in connection with an application for a permit is true in substance;
 - (d) as often as may be necessary, make inquiries and inspections of any building or premises between the hours of 9:00 a.m. and 6:00 p.m. to determine whether a holder of a permit issued pursuant to this by-law complies in every respect with the permit issued and by-laws of the Council;

- 4 -

- (e) report in writing to the Council bi-monthly, or as otherwise requested by the Council, stating the number of permits issued, types of permits issued, the types of buildings being built on the reserve, the duration of each permit, and the amount of money received since the previous report, along with a summary stating the total number of permits issued and the total amount of fees received to date for the current year;
 - (f) answer such questions as related to the administration of this by-law;
 - (g) perform such other duties as may be assigned by the Council from time to time.
- (2) A building inspector may order
- (a) a person who contravenes a permit, this by-law or any other applicable by-law to comply with the permit or the by-law within a specified time period;
 - (b) the termination of any construction on a building or part thereof, if work is proceeding in contravention of a permit, this by-law or any other applicable by-law;
 - (c) the termination of any construction on a building or part thereof, where there are unsafe conditions present;
 - (d) the correction of any unsafe condition observed in any building;
 - (e) the removal of any building or part thereof constructed in contravention of a permit, this by-law or other applicable by-law; and
 - (g) the termination of any occupancy of any building if any unsafe condition exists.
- (3) The building inspector may direct that sufficient evidence or proof be submitted at the expense of the owner to determine whether a material, device, construction method, assembly, construction or foundation meets the requirements of this by-law.
- (4) When due notice to correct unsafe conditions in a building has not been complied with, the building inspector may make safe such condition at the expense of the owner.

Application for Building Permit

10. (1) A person who wishes to obtain a building permit shall make an application in writing to a building inspector on the form "Application for Building Permit", which is set out in Schedule "A".
- (2) An application for a building permit shall be accompanied by the prescribed fee as set out in Schedule "E".

- 5 -

- (3) An application for a building permit shall include
- (a) a detailed description of the construction to be undertaken;
 - (b) a statement as to the intended use and occupancy of the building;
 - (c) the legal description of the land on which the construction is to be done;
 - (d) site plans and specifications;
 - (e) the valuation of the proposed construction;
 - (f) the names, addresses and telephone numbers of the owner, architect, engineer, contractor, subcontractor or other designer and constructor; and
 - (g) any other relevant information the applicant wishes to submit.
- (4) There shall be included in every site plan an indication of
- (a) the location of the proposed building or buildings;
 - (b) the means of access and egress to service the property;
 - (c) the location of any other existing building or buildings on the site;
 - (d) all easements and rights-of-way; and
 - (e) the occupancy of all parts of the proposed building.

Issue of Building Permit

11. A building inspector shall issue a building permit to the applicant if
- (a) the applicant has disclosed all information required to be disclosed in the application form and the building inspector is satisfied that all information disclosed by the applicant is true;
 - (b) the proposed construction complies with the standards and specification of the National Building Code and the Nova Scotia Building Code, except as otherwise specified in this by-law;
 - (c) where utility services for the property are available, all appropriate connecting fees have been paid;

- 6 -

- (d) provision has been made for a sewage disposal system that is adequate for the property;
- (e) provision has been made for an adequate water system for the property;
- (f) the Millbrook Indian Band Zoning By-law has been complied with;
- (g) all other Band by-laws have been complied with; and
- (h) the required fee for the building permit has been paid.

Construction Period

- 12.
- (1) Work shall be commenced within 180 days from the date of issue of a building permit.
 - (2) A person may apply to a building inspector for an extension of the period for completion set out in a building permit.
 - (3) The building inspector shall grant an extension if
 - (a) he is satisfied that the work is progressing in accordance with the approved plans at a reasonable rate of progress; and
 - (b) the required extension fee set out in Schedule "E" has been paid
 - (4) A person to whom a building permit has been issued may apply to a building inspector in writing to cancel the building permit within six months from the date of issue.
 - (5) Where a building inspector cancels the building permit, and no work has taken place, he shall refund 50% of the building permit fee.

Application for Variance Permit

- 13.
- (1) A person who wishes to obtain a variance permit shall make an application in writing to a building inspector.
 - (2) An application for a variance permit shall be accompanied by the prescribed fee as set out in Schedule "E".
 - (3) An application for a variance permit shall include
 - (a) the proposed changes to the work;
 - (b) revised site plans and specifications;

- (c) the valuation of the proposed changes; and
- (d) any other relevant information the applicant wishes to submit.

Issue of Variance Permit

14. (1) the building inspector shall issue a variance permit if
- (a) the applicant has disclosed all information required to be disclosed in the application form and the building inspector is satisfied that all information disclosed by the applicant is true;
 - (b) the proposed variance complies with the standards and specifications of the National Building code and the Nova Scotia Building Code except as otherwise specified in this by-law;
 - (c) where utility services for the property are available, all appropriate connection fees have been paid;
 - (d) provision has been made for a sewage disposal system that is adequate for the property;
 - (e) provision has been made for an adequate water system for the property;
 - (f) the Millbrook Indian Band Zoning By-law has been complied with;
 - (g) all other Band by-laws have been complied with; and
 - (h) the required fee for the variance permit has been paid.
- (2) Section 12 applies to variance permits, substituting the word "variance" for the word "building".

Application or Demolition Permit

15. (1) A person who wishes to obtain a demolition permit shall make an application in writing to a building inspector.
- (2) An application for a demolition permit shall be accompanied by the prescribed fee as set out in Schedule "E".
- (3) An application for a demolition permit shall include
- (a) the legal description of the land on which the demolition is to take place;

- (b) the name, address and telephone number of the person who is to undertake the demolition;
- (c) the type of building which is to be demolished;
- (d) the manner in which the building will be demolished;
- (e) the site plans and specifications of the building to be demolished, including the location of nearby buildings;
- (f) evidence to show that no unsafe conditions will be created or permitted;
- (g) evidence to show that all utility services to the building have been disconnected and that all such disconnections have been approved by the appropriate authority;
- (h) any other relevant information the applicant wishes to submit.

Issue of Demolition Permit

16. (1) The building inspector shall issue a permit to the applicant if
- (a) the applicant has disclosed all information required to be disclosed in the application form and the building inspector is satisfied that all information disclosed by the applicant are true;
 - (b) the proposed demolition complies with the standards and specifications of the National Building Code and the Nova Scotia Building Code, except as otherwise specified in this by-law;
 - (c) utility services to the building have been disconnected and all such disconnections have been approved by the appropriate authority;
 - (d) water services to the building are disconnected;
 - (e) all other Band by-laws have been complied with;
 - (f) the applicant has agreed to leave the site of the demolition in a safe, neat condition, free from debris and dust; and
 - (g) the required fee for the demolition permit has been paid.

(2) Section 12 applies with respect to demolition permits, substituting the word "demolition" for the word "building".

Application for Occupancy Permit

17. (1) A person who wishes to obtain an occupancy permit shall make an application in writing to a building inspector.
- (2) An application for an occupancy permit shall include
- (a) a statement to the effect that the construction of a building has been completed and that the building is now suitable for habitation;
 - (b) evidence to show that all utility services, water services and sewers or other disposal systems are in service; and
 - (c) any other relevant information or documents the applicant wishes to submit.

Issue of Occupancy Permit

18. The Building inspector shall issue an occupancy permit to the applicant if
- (a) the building is suitable for habitation;
 - (b) utility services are complete;
 - (c) a sanitary sewer or other disposal system is in service;
 - (d) running water is in service;
 - (e) no unsafe conditions exist;
 - (f) the National Building Code and the Nova Scotia Building code have been complied with, except as otherwise specified in this by-law;
 - (g) the Millbrook Indian Band Zoning By-law has been complied with; and
 - (h) all other Band by-laws have been complied with.

Revocation or Suspension of Permits

19. The building inspector may suspend for a period not exceeding sixty days or revoke any permit issued under this by-law, where the permit holder
- (a) has failed to comply with this by-law;

- 10 -

- (b) has failed to comply with any other Band by-law;
- (c) has contravened any term or condition of the permit;
- (d) has not commenced the work within 180 days after the issue of the permit;
- (e) has suspended or discontinued the work for a period of more than one year; or
- (f) has submitted false, misleading, mistaken or incorrect information to the building inspector.

Appeal

20.

- (1) Any person
 - (a) whose application for a permit under this by-law has not been granted by a building inspector; or
 - (b) whose permit has been revoked or suspended by a building inspector under Section 19,

may appeal the decision of the building inspector to the council by filing a Notice of Appeal with the council.

- (2) A Notice of Appeal shall be in writing and shall set out
 - (a) the name and address of the appellant;
 - (b) the grounds for appeal; and
 - (c) the location of the work.
- (3) Within 15 days after receipt of the Notice of Appeal, the Council shall hear the appeal, and shall give prior notice to the appellant and the building inspector of the time and place of the appeal.
- (4) At the hearing of the appeal, the Council shall provide the appellant and the building inspector with an opportunity to present evidence and to make oral and written submissions.
- (5) Within 10 days after hearing the appeal, the Council shall, based on the criteria set out in section 19, confirm, revoke or vary the decision appealed from.
- (6) The Council shall send a copy of its decision and its written reasons to the appellant and to the building inspector.

Offences

21. (1) A person who
- (a) fails or refuses to comply with any provision of this by-law or of the terms and conditions of any permit issued under this by-law;
 - (b) submits false or misleading information to a building inspector; or
 - (c) interferes with or obstructs a building inspector acting in the administration or enforcement of this by-law,
- commits an offence.
- (2) Where an act or omission in contravention of this by-law continues for more than one day, such act or omission shall be deemed to be a separate offence committed on each day during which it continues, and may be punished as such.

Penalty

22. A person who commits an offence under this by-law is liable on summary or to imprisonment for a term not exceeding \$1,000.00 or to imprisonment for a term not exceeding 30 days, or to both.

Further Remedies Available

23. (1) Where this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted.
- (2) Where this by-law is contravened, in addition to any other remedy and to any penalty imposed by the by-law, such contravention may be restrained by court action at the instance of the band council.

This by-law is hereby made at a duly convened meeting of the Council of the Millbrook Indian Band this 25 day of August, 1991.

Voting in favour of the by-law are the following members of the Council:

Lawrence Paul
Member of the Council

Clara St. Louis
Member of the Council

[Signature]
Member of the Council

Member of the Council

Barry Wood
Member of the Council

Member of the Council

Member of the Council

being the majority of those members of the Council of the Millbrook Indian Band present at the aforesaid meeting of the Council.

The quorum of the Council is four members.

Number of members of the Council present at the meeting: 4

I, *Lawrence Paul*, Chief of the Millbrook Indian Band, do hereby certify that a true copy of the foregoing by-law was mailed to the Minister of Indian Affairs and Northern Development at the Regional office in Amherst, pursuant to Subsection 82(1) of the Indian Act, this 28 day of August, 1991.

[Signature]
Witness

Lawrence Paul
Chief

19

SCHEDULE "A"
APPLICATION FOR BUILDING PERMIT

I, _____, of _____
(Name) (Address)

being the owner _____ authorized agent _____

hereby make application to Erect _____ Add to _____

Alter _____ Repair _____ Other _____ the

following building which is described by site plans and specifications forming part of this application.

All easements and right-of ways are shown on the drawings

Owner: _____

Address and Phone: _____

Architect: _____

Address and Phone: _____

Engineer: _____

Address and Phone: _____

Contractor: _____

Address and Phone: _____

Subcontractor: _____

Address and Phone: _____

Others: _____

Address and Phone: _____

Legal Description of Land:

Type of Building: _____

Intended Use & Occupancy: _____

20

Schedule "A"

Page 2

Zoning: _____ Building Area: _____
 Area of Land: _____ Method of Heating: _____
 Roofing: _____ Framing: _____
 Plumbing: _____ Electrical: _____
 Water Service: _____ Insulation: _____
 Sanitary Service or Other Disposal System: _____
 Foundation: _____ Excavation: _____
 Garage: _____ Other Accessory Buildings: _____
 Ventilation: _____
 Other: _____

Total Value of all Work Including Subtrades: \$ _____

Permit Fee: \$ _____

Detailed Description of Proposed Work:

 Name Date

Permit No. _____ Issued on _____

Building Inspector

SCHEDULE "B"
BUILDING PERMIT/VARIANCE PERMIT

Issued: _____, 19 ____ Permit No. _____

Expires _____, 19 ____

Name: _____

Location of Work: _____

Legal Description of Land: _____

Type of Building: _____

Intended Use of Occupancy Zoning: _____

Owner: _____

Address & Phone No.: _____

Architect: _____

Address & Phone No: _____

Engineer: _____

Address and Phone No.: _____

Contractor: _____

Address and Phone No.: _____

Subcontractor: _____

Address and Phone No.: _____

Others: _____

Purpose for Which Permit is Issued:

22

Schedule "B"
Page 2 _____

Conditions of Permit:

1. The work authorized under this permit shall comply with the standards and specifications contained in the National Building Code and the Nova Scotia Building Code.
2. The permit holder shall be responsible for any damage caused to public or private property while undertaking work authorized under this permit.
3. This permit must be posted in a conspicuous place on the premises for which it is issued.

CALL FOR INSPECTIONS AS INDICATED

<u>INSPECTION OF</u>	<u>APPROVED</u>	<u>INSPECTOR'S SIGNATURE</u>
Excavation	_____	_____
Foundation	_____	_____
Roofing	_____	_____
Framing	_____	_____
Insulation	_____	_____
Ventilation	_____	_____
Electrical	_____	_____
Plumbing	_____	_____
Heating	_____	_____
Water Service	_____	_____
Sanitary Service	_____	_____
Other	_____	_____
Final	_____	_____

Date

Building Inspector

**SCHEDULE "C"
DEMOLITION PERMIT**

Issued _____ 19 ____ Permit No. _____

Expires _____ 19 ____

Name: _____

Location of Building: _____

Legal Description of Land: _____

Type of Building (size, materials):

Owner: _____

Address & Phone: _____

Contractor: _____

Address & Phone: _____

Subcontractor: _____

Address & Phone: _____

Engineer: _____

Address & Phone: _____

Others: _____

Address & Phone: _____

Purpose for Which Permit is Issued:

Schedule "C"

Page 2

Conditions of Permit

1. The work authorized under this permit shall comply with the standards and specifications contained in the National building Code and the Nova Scotia Building Code.
2. The permit holder shall leave the site of the demolition in a safe, neat condition free from debris and dust.
3. The permit holder shall be responsible for any damage caused to public and private property while undertaking work authorized under this permit.
4. This permit shall be posted in a conspicuous place on the premises for which it is issued.

Date

Building Inspector

25

**SCHEDULE "D"
OCCUPANCY PERMIT**

Issued _____ 19 ____ Permit No. _____

Name(s) _____

Civic Address of Building _____

Legal Description of Land _____

Type of Building _____

Type of Use and Occupancy _____

The National Building Code and the Nova Scotia Building Code
have been complied with _____

Approved: _____

The Building constructed under Authority of Permit No. _____
may now be occupied.

Date

Building Inspector

26

**SCHEDULE "E"
PERMIT FEES**

For the purpose of calculating the fee for permits under this by-law, the value of work shall be the total contract price for the work, including all subcontracts.

i. Construction

Building/Variance permit fees shall be in accordance with the following scale:

- 1. For the construction of a value of \$500.00 or less - \$10.00
- 2. For construction of a value of \$501.00 to \$1,000.00 - \$20.00
- 3. For each \$1000.00 or part thereof by which the value exceeds the sum of \$1,000.00 up to a maximum value of \$50,000.00 - \$ 3.50
- 4. For each \$1,000.00 or part thereof by which the value exceeds the sum of \$50,000.00 as additional fees - \$ 2.50

ii. Demolition

The fees for a permit to demolish or remove a building shall be the following:

- 1. For buildings less than 1,000 square feet in area - \$15.00
- 2. For buildings over 1,000 square feet in area - \$25.00

iii. Extension

In the event that an extension of the period set out in a permit is required for work which has not reached final completion, the fee for such extension shall be 20 per cent of the original permit fee.