

BY-LAW NO. 100

A by-law regarding the zoning of the Driftpile Indian Reserve and the use of buildings, whether owned by the Band or by individual members of the Band and the removal and punishment of persons unlawfully on reserve in contravention of this by-law.

WHEREAS the Indian Act, R.S.C., 1970, as amended, provides that the Council of a band may make by-laws to regulate use of buildings on reserve and may make by-laws to divide reserves into zones, together with a power to prohibit the construction or maintenance of any class of buildings or the carrying on of any class of business, trade or calling in such zones.

AND WHEREAS the said Act further provides that the Council of a band may make by-laws to provide for the removal and punishment of certain persons found on the reserve;

AND WHEREAS the goals of the Driftpile Indian Band include the orderly development of the reserve to protect the health, safety and good order of the reserve society;

AND WHEREAS it is deemed expedient and in the interest of the general welfare of the Driftpile Indian Band to pass this by-law;

BE IT THEREFORE ENACTED as a by-law of the Driftpile Indian Band as follows:

SECTION 1

ADMINISTRATION AND ENFORCEMENT

1.1 TITLE

This By-law may be cited as the "Driftpile Zoning By-law".

1.2 COMPLIANCE WITH ZONING BY-LAW

No person shall, within the lands to which this By-law applies, use any land or erect or use any building or structure except in conformity with the provisions of this By-law.

1.3 CERTIFICATE OF ZONING COMPLIANCE

- a) The Band Council may issue Certificates of Zoning Compliance with respect to the use of any lands, buildings or structures.
- b) No change may be made in the type of use of any land or of any building or structure unless and until a Certificate of Zoning Compliance permitting such change in type of use has been issued which will certify that the change in type of use still complies with the permitted uses of that zone. If the suggested change in type of use does not comply with the existing zoning, no such change may be made unless and until the subject land has been rezoned by by-law to permit the new use.
- c) For the purpose of this By-law "type of use" shall mean any individual use listed under "permitted uses" in Section 4 of this By-law.

1.4 ENFORCEMENT

- a) Any person convicted of a breach of any of the provisions of this By-law is guilty of an offence and is liable upon summary conviction to a fine not exceeding \$1,000.000 or imprisonment for a term not exceeding thirty days or both.
- b) Except with respect to section 4.1.1.2 b) hereof, any peace officer may remove from the Driftpile Indian Reserve any person whom he believes, on reasonable and probable grounds, is on the reserve in contravention of this by-law.

1.5 SEVERABILITY PROVISIONS

A decision of a Court that one or more of the provisions of this By-law are invalid in whole or in part does not affect the validity, effectiveness or enforceability of the other provisions or parts of the provisions of this By-law.

SECTION 2

DEFINITIONS

For the purposes of this By-law, the definitions given in this Section shall govern, unless a contrary intention appears.

ACCESSORY

A use or separate building or structure incidental, subordinate and normally associated with the principal use and located adjacent to the main building or structure but not including a building or structure used for human habitation.

BUILDING

A structure consisting of a wall, roof and floor, or any one or more of them, or a structural system serving the function thereof, including all the works, fixtures and service systems appurtenant thereto.

BUILDING, ADMINISTRATION

A building used as an office for the conduct of the affairs of the Band and its companies, and any portion of which may be leased to other individuals for use as offices if not required by the Band. Such buildings may also house a private health club and Band television equipment.

BUILDING, STAFF

A building containing three or more dwelling units and used to house Driftpile staff and their spouses and children if any.

BUILDING, SINGLE DETACHED

A building containing only a dwelling unit.

CAR WASH

A building or structure for use by the general public containing facilities for washing motor vehicles for a fee.

DAY CARE CENTRE

A building or a part of a building used for the temporary care and custody of children for a continuous period of not exceeding 24 hours.

DWELLING

A building or a part of a building that may be used as a permanent residence excluding a mobile home.

DWELLING UNIT

One or more habitable rooms, including both cooking and sanitary facilities, used as a permanent residence and operated as a single housekeeping unit, by one person or one couple and their children, if any, with all residents having access to all of the habitable areas and the facilities of the unit.

ERECT

To build, construct, reconstruct or relocate and, without limiting the generality of the foregoing also includes:

- a) any preliminary operation such as excavation, filling or draining preparatory to any building or construction;
- b) altering any existing building or structure by an addition, enlargement, extension or other structural change;

FOSTER HOME

A single housekeeping unit in a dwelling, in which individuals may be placed with Foster Parents to gain a family life experience, the said home being affiliated with a recognized social agency.

HOME OCCUPATION

An accessory use which is conducted entirely within one dwelling unit and its accessory buildings by any resident of that dwelling unit.

HOUSEHOLD SALES

The sale by an occupant of a dwelling unit, on his own premises, of household goods belonging to him.

MOBILE HOME

Any swelling designed to be made mobile and constructed or manufactured to provide a permanent residence as a single detached structure containing one dwelling unit, for one or more persons, but not including a travel trailer, tent trailer or trailer otherwise designed.

MUNICIPAL SERVICES

Such services as curbs, gutters, sidewalks, pavement, and roadworks, sewerage and drainage systems, pumping stations, sewerage treatment plants, private drain connections, water mains, service pipes, electrical services, or street lights, designed to service or capable of servicing a parcel of land.

OFFICES

The term "offices" shall include professional offices, medical-dental offices, and Government offices where these are not expressly excepted.

OFFICES, MEDICAL-DENTAL

Medical-dental offices shall mean an office or offices in which the practice of the professions of medicine, surgery or dentistry is carried on or in which the treatment of osteopathy or chiropractic is carried out.

OFFICES, PROFESSIONAL

Professional offices shall mean an office in which the practice of the professions of medicine, surgery, dentistry, engineering, architecture, land surveyor, accounting, law or other professions is carried on or in which the treatment by osteopathy or chiropractic is carried out.

OPEN SPACE

Outdoor space within the reserve, at grade level which is designed and intended for the common use or enjoyment of the residents of the reserve.

PERSON

An individual, association, firm, partnership, corporation, trust, organization, trustee or agent, and the heirs, executors or legal representatives of the person to whom the context can apply according to law.

PRIVATE HOME DAY CARE

The temporary care and custody for reward or compensation of not more than five children under ten years of age in a private residence other than the home of a parent or guardian of any such child for a continuous period of not exceeding 24 hours.

RESTAURANT

A building or part of a building where food is prepared and offered for sale or sold to the public primarily for immediate consumption therein.

SERVICE STATION

A building or place where gasoline or other motor fuels are kept for sale and for delivery directly into a motor vehicle, and may also include a building or place where running repairs to motor vehicles and the sale to the motoring public of goods usual to the trade are performed, and may also include a building or place used for a restaurant, in connection with the service station, tire shop and/or motor vehicle body repair shop and public transportation terminal.

STRUCTURE

Anything that is erected, built or constructed or parts joined together or any such erection fixed to or supported by or incorporated within the soil and/or any other structure and, without limiting the generality of the foregoing, a swimming pool either above or below ground is a structure.

USE

When used as a noun, means the purpose for which any land, building, structure or premises, or part or combination thereof, is arranged, designed, or intended to be used and "uses" shall have a corresponding meaning. "Use" when used as a verb or "to use" shall have a corresponding meaning.

VEHICLE

A motor vehicle, a farm implement, a mobile home, a motor home, a snowmobile, a trailer, house trailer, or motorized construction equipment.

SECTION 3

GENERAL PROVISIONS

3.1 ESTABLISHMENT OF ZONES

For the purpose of this By-law and of the maps contained in Schedule A hereto, the following zones are established:

a) Class: Residential

<u>Symbol</u>	<u>Name</u>
R1	- Low Density Residential
RE	- Country Estate Residential

- b) Class: Commercial
- | <u>Symbol</u> | <u>Name</u> |
|---------------|--------------|
| C | - Commercial |
- c) Class: Institutional
- | <u>Symbol</u> | <u>Name</u> |
|---------------|-----------------|
| I | - Institutional |
- d) Class: Open Space and Park
- | <u>Symbol</u> | <u>Name</u> |
|---------------|-----------------------|
| OP | - Open Space and Park |
- e) Class: Industrial
- | <u>Symbol</u> | <u>Name</u> |
|---------------|-----------------|
| I | - Institutional |
- f) Class: Agricultural
- | <u>Symbol</u> | <u>Name</u> |
|---------------|----------------|
| AG | - Agricultural |
- g) Class: Forest Area
- | <u>Symbol</u> | <u>Name</u> |
|---------------|---------------|
| FR | - Forest Area |

3.2 SCHEDULES AND TABLES

All Schedules attached to this by-law form part of the by-law.

3.3 USES PERMITTED IN ALL ZONES

Notwithstanding any other provisions of this By-law the following uses are permitted in every zone:

3.3.1 ACCESSORY USES

Any use accessory to a lawful use is permitted but no accessory building shall be used for human habitation.

3.4 HOME OCCUPATIONS

Home Occupations are a permitted use within a single detached dwelling or mobile home, subject to the following provisions:

- a) The floor area taken up by all home occupations shall be no more than 25 percent of the total floor area of the dwelling unit and accessory buildings and shall in no case exceed 28 square metres in total, whichever is the lesser.
- b) The home occupation shall not involve the use of employment within the dwelling unit of more than one person who does not reside in the dwelling unit.

- c) The home occupation shall not involve the use of the premises as a base of operations for persons who are employed by or associated with the home occupation, nor shall the premises be used to assemble or rally such persons for transportation to a work site.
- d) There shall be no visible indication that home occupations are being carried on within the dwelling unit except that one sign no larger than 0.15 square metres attached to the dwelling unit shall be permitted to show the name and callings of the residents concerned.
- e) No retail use of the dwelling unit shall be permitted as a home occupation, except retail sales of a finished article as provided in (h).
- f) No institutional use of the dwelling unit shall be permitted as a home occupation.
- g) No food preparation or service shall be provided in connection with the home occupation.
- h) No manufacturing, assembly or repair process shall be carried on in connection with the home occupation except for the fabrication of handmade articles of clothing, arts or crafts.
- i) No animal, corpse, bacteria or virus shall be brought to the dwelling unit in connection with the home occupation.
- j) No lodging shall be provided in connection with the home occupation.
- k) No lands, premises, garages or accessory buildings associated with the dwelling unit shall be used in connection with the home occupation except as provided in clause (a).

3.5 HOUSEHOLD SALES

Household Sales are permitted in either residential zone, except that no person shall conduct more than two household sales per annum at one location and no such sale shall exceed one day's duration.

3.6 FOSTER HOME

A foster home is permitted in either Residential Zone.

3.7 ACCESSORY BUILDINGS

Within a Residential Zone, any building accessory to a lawful use or building is permitted subject to provisions that no accessory building shall be used for human habitation.

3.8 REQUIREMENT FOR MUNICIPAL SERVICES

Notwithstanding any other provisions of this By-law, no lands shall be used nor any building or structure erected or used thereon unless such municipal services as the Town and/or Band Council ordinarily requires upon the development or redevelopment of land are available and capable of servicing the said land, building or structure.

SECTION 4

USE ZONES

No person shall, in any zone, use any land or erect or use any building or structure for any purpose or use that is not permitted in such zone or other than in accordance with regulations provided in this By-law.

4.1 RESIDENTIAL

4.1.1 LOW DENSITY RESIDENTIAL ZONE - R1

General Purpose of Zone

The R1 Zone is only for those residential developments with general water distribution and sanitary collection systems.

4.1.1.1 PERMITTED USES

The following are permitted uses in the R1, Low Density Residential Zone:

- a) Single family dwelling;
- b) Two family dwelling;
- c) Church or mission building; and
- d) Accessory uses.

4.1.1.2 CONDITIONAL USES

- a) Small parks and playgrounds which serve specific residential developments;
- b) A public building or a public utility;
- c) Home occupations;
- d) One-family modular unit or mobile home;
- e) Family care or group care facility;
- f) Hostel or day nursery;
- g) Apartments, four-plexes, etc.; and
- h) Accessory uses.

4.1.1.3 REGULATIONS

- a) Each main building in a low density residential zone shall have
 - (i) a front yard not less than 4.5 metres;
 - (ii) side yards of not less than 3 metres or such greater distance to meet the fire protection requirements of the Fire Marshal;
 - (iii) a rear yard not less than 8 metres.
- b) Each building lot in a low density residential zone shall have
 - (i) an area of not less than 1500 square metres for a single family dwelling;
 - (ii) an area of not less than 1500 square metres for each dwelling unit; or
 - (iii) an area of such size as required by the Development Officer for any other use;
 - (iv) a minimum average lot width of 18 metres or sufficient to accommodate the size of yards whichever is greater;
 - (v) a depth as required by the Development Officer to accommodate the front and back yards.
- c) No building in a low density residential zone shall have a height exceeding two and one half storeys.
- d) No accessory building shall be used for human habitation.

4.1.2 COUNTRY ESTATE RESIDENTIAL ZONE - RE

General Purpose of Zone

This Zone is for Country Estate Residential developments with a minimum weight size (0.4 ha. or 1.0 Ac) without central water and/or sewer.

4.1.2.1 PERMITTED USES

The following are permitted uses in the R2, Residential Zone:

- a) Single Family dwelling;
- b) Two family dwelling;
- c) Church or mission building; and
- d) Accessory uses.

4.1.2.2 CONDITIONAL USES

- a) Small parks and playgrounds which serve specific residential developments;
- b) A public building or a public utility;
- c) Home occupations;
- d) One-family modular unit or mobile home;
- e) Family care or group care facility;
- f) Hostel or day nursery;
- g) Apartment, Four-plexes, etc.
- h) Accessory uses.

4.1.2.3 REGULATIONS

- a) Each main building in a low density residential zone shall have
 - (i) a front yard not less than 4.5 metres;
 - (ii) side yards of not less than 3 metres or such greater distance to meet the fire protection requirements of the Fire Marshal;
 - (iii) a rear yard not less than 8 metres.
- b) Each building lot in a low density residential zone shall have
 - (i) an area of not less than 1500 square metres for a single family dwelling;
 - (ii) an area of not less than 1500 square metres for each dwelling unit; or
 - (iii) an area of such size as required by the Development Officer for any other use;
 - (iv) a minimum average lot width of 18 metres or sufficient to accommodate the size of yards whichever is greater;
 - (v) a depth as required by the Development Officer to accommodate the front and back yards.
- c) No building in a low density residential zone shall have a height exceeding two and one half storeys.
- d) No accessory building shall be used for human habitation.

4.2 COMMERCIAL ZONE

4.2.1 PERMITTED USES

The following are permitted uses in the Commercial Zone:

- a) A retail store or commercial service establishment, including a service station;
- b) A hotel or motel;
- c) A restaurant or other public eating-drinking establishment;
- d) A theatre or other place of public entertainment;
- e) An office building, including bank, physician's office or other use relating to the provision of retail, professional, technical, government or public services;
- f) A motel or hotel or other commercial establishment providing temporary accommodation for transients;
- g) A public parking lot;
- h) Accessory uses.

4.2.1.1 CONDITIONAL USES

- a) Municipal or utility installation;
- b) Temporary structure for sales, amusements, recreation or promotional uses;
- c) Any outdoor display or sales undertaking;
- d) Residential accommodation associated with a primary use;
- e) Craft shop or similar undertaking;
- f) Such other uses as considered appropriate by the Development Officer after formal consultation with the Council;
- g) Accessory uses.

4.2.1.2 REGULATIONS

- a) Each main building shall have
 - (i) a front yard of not less than 6 metres;
 - (ii) an accessory area for the loading, off-loading and storage of goods and materials of a size and location to the satisfaction of the Development Officer;
 - (iii) a covered or screened area for garbage and trade waste;
 - (iv) a rear yard of not less than 6 metres;
 - (v) provision for vehicular access to the rear;
 - (vi) size yards to conform to fire protection requirements of the Fire Marshall;
 - (vii) unobstructed pedestrian access from fire exits.
- b) No building in a Commercial Zone shall have a height exceeding three storeys.
- c) No accessory building shall be used for human habitation.
- d) The design, siting, external finish, architectural appearance and landscaping generally of all buildings including any accessory buildings or structures and signs and any reconstruction shall be to the satisfaction of the Council in order that there shall be general conformity in such matters with adjacent buildings.

4.3 INSTITUTIONAL

4.3.1 PERMITTED USES

- a) An educational establishment;
- b) A library, community hall, museum, arena or rink;
- c) A church, mission hall or house of assembly;
- d) A hospital, clinic, nursing station or medical centre;
- e) A hostel;
- f) A police station or office;
- g) Federal, Territorial or Municipal Government installations;
- h) A park or playing field;
- i) A parking lot;
- j) A public utility installation;
- k) Any existing building or uses which have special historical and cultural value and have been proposed as a Territorial Historical Site;
- l) Accessory uses.

4.3.1.2 CONDITIONAL USES

- a) Residential accommodation associated with a primary use;
- b) Minor or temporary retail outlets, tourist information offices or concessions;
- c) Scientific laboratory;
- d) Such other uses as may be considered appropriate by the Development Officer after formal consultation with the Council.

4.3.1.3 REGULATIONS

- a) Each main building shall have
 - (i) a front yard not less than 7.5 metres;
 - (ii) a rear yard not less than 9 metres;
 - (iii) side yards to conform to fire protection requirements for the Fire Marshal;
 - (iv) unobstructed pedestrian access from fire exits.

4.4 OPEN SPACE AND PARK ZONE

4.4.1 PERMITTED USES

- a) A public park, playing field, exhibition grounds or buildings;
- b) A school or other educational establishment;
- c) A monument, cairn or statue;
- d) A cemetery;
- e) An outdoor skating rink;
- f) An airport approach zone and approach lighting;
- g) Accessory uses.

4.4.1.2 CONDITIONAL USES

- a) Docks for boats or light aircraft in locations where adequate public roadway access and water depths are available;
- b) Municipal and public utility installations;
- c) Such other uses as may be considered appropriate by the Development Officer after formal consultation with the Council;
- d) Accessory uses.

4.4.1.3 REGULATIONS

- a) Each development shall have sufficient access, yards and lot area as deemed necessary by the Development Officer giving consideration to the open space nature of the zone.

4.5 INDUSTRIAL ZONE

4.5.1 PERMITTED USES

- a) Any industrial or manufacturing activity whose operation will not jeopardize public health or fire safety requirements, as defined by the Medical Health Officer and the Territorial Fire Marshal, respectively;
- b) Storage and warehousing of non-hazardous goods or liquids;
- c) The sale of goods, either wholesale or retail, or services produced as a direct product of the industrial activity carried out;
- d) Municipal and public utility installations;
- e) Federal, Territorial and Municipal Government installations;
- f) Repair service and garages;
- g) A truck or bus depot or parking garage;
- h) A parking lot or off-loading facility;
- i) A power plant;

- j) Water front docks;
- k) Railway;
- l) Accessory uses.

4.5.1.2 CONDITIONAL USES

- a) The storage or warehousing of hazardous material within the terms of applicable codes and regulations;
- b) The dismantling or storage of inoperative automobiles or other vehicles;
- c) Such other uses as may be considered appropriate by the Development Officer after formal consultation with the Council;
- d) Accessory uses.

4.5.1.3 REGULATIONS

- a) Each main building shall have
 - (i) a front yard or not less than 12 metres;
 - (ii) side yards of not less than 6 metres;
 - (iii) a rear yard of not less than 12 metres.
- b) Each lot shall have an area of not less than 600 square metres and sufficient depth and width to meet yard requirements.
- c) External storage of goods or materials is permitted if kept in a neat and orderly manner or suitably enclosed by a fence or wall to the satisfaction of the Development Officer.²R
- d) The design, siting, external finish, architectural appearance and landscaping generally of all buildings, including any accessory buildings or structures and signs and any reconstruction shall be to the satisfaction of the Council.

4.6.1 AGRICULTURAL ZONE

4.6.1.1 PERMITTED USES

4.6.1.2 CONDITIONAL USES

4.6.1.3 REGULATIONS

4.7.1 FOREST AREA ZONE

4.7.1.1 PERMITTED USES

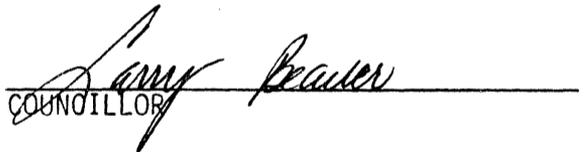
4.7.1.2 CONDITIONAL USES

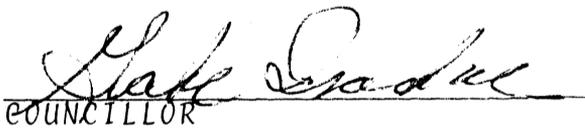
4.7.1.3 REGULATIONS

THIS BY-LAW DULY READ AND PASSED AT A DULY CONVENED AND CONSTITUTED MEETING OF THE DRIFTPILE INDIAN BAND COUNCIL THIS 18th DAY OF September A.D., 1986.


CHIEF

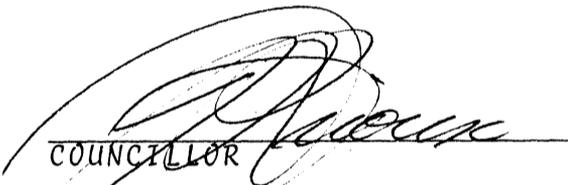

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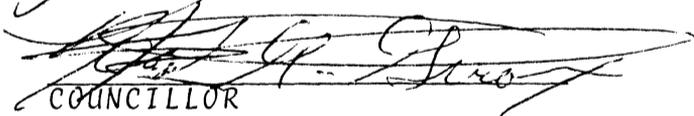

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