

## CAMPBELL RIVER INDIAN BAND

### BY-LAW NO. 1996-2

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#### **A BY-LAW TO REGULATE THE INSTALLATION OF UTILITIES WITHIN CERTAIN PORTIONS OF CAMPBELL RIVER INDIAN RESERVE NO. 11 ZONED FOR COMMERCIAL PURPOSES.**

#### **WHEREAS:**

A. The Council ("Band Council") of the Campbell River Indian Band has by virtue of Section 81.(1)(f) of the *Indian Act* the power to make by-laws for the regulation of the construction and maintenance of local works.

B. The Band Council wishes to develop a shopping centre, residential condominiums, office facilities and other commercial developments on the following lands within Campbell River Indian Reserve No. 11:

Lot 132  
Campbell River Indian Reserve No. 11  
Sayward District  
CLSR Plan 77828

Lot 134  
Campbell River Indian Reserve No. 11  
Sayward District  
CLSR Plan 77343

Lot 136  
Campbell River Indian Reserve No. 11  
Sayward District  
CLSR Plan 78317

("Reserve Commercial Lands") and on adjacent non-reserve lands, the registered owner of which is Discovery Harbour Holdings Ltd., a corporation whose shares are owned entirely by members of the Band.

C. The Band Council wishes to ensure, to the extent possible, that municipal services will be available within the Reserve Commercial Lands to the level and standard that such services are available within non-reserve lands adjacent to the Reserve Commercial Lands.

NOW THEREFORE, the Band Council enacts as follows:

1. This By-law may be cited for all purposes as the "**Utilities Regulations By-Law No. 1996-2**".

2. In this By-Law, unless the context otherwise required:

**"Band"** means the Campbell River Indian Band.

**"Band Council"** means the Council of the Band.

**"District"** means the District of Campbell River.

**"Highway"** means a street, road, lane bridge, viaduct, and any other way open to the use of the public, but does not include a private right-of-way on private property.

**"District Superintendent"** means the Superintendent of the Public Works of the District of Campbell River, or his duly authorized representative.

**"Occupier"** means:

(a) one who is qualified to maintain an action for trespass; or

(b) the person in possession of land held under lease, licence, agreement for sale, accepted application to purchase, easement, or other record from the Crown, or who simply occupies the land.

**"Owner"** means the owner of or holder of a leasehold interest in the Reserve Commercial Lands, or any portion thereof.

**"Person"** means a corporation, partnership, or party, and the heirs, executors, administrators, or other legal representatives of a person to whom the context can apply according to law.

**"Reserve Commercial Lands"** means lands within Campbell River under Reserve No. 11 described as follows:

Lot 132, 134 and 138  
Campbell River Indian Reserve No. 11  
Sayward District  
CSLR Plan 77828, and

Lot 136  
Campbell River Indian Reserve No. 11  
Sayward District  
CSLR Plan 78317

- "Right-of-Way"** means land or any interest in land acquired for the purpose of:
- (a) public rights of passage with or without vehicles; or
  - (b) constructing, maintaining, or operating any railway, street railway, tramway, or aerial tramway; or
  - (c) erecting and maintaining any poleline, wood or timber chute; or
  - (d) laying, placing, and maintaining drains, ditches, pipes, transmission lines, or wires for conveyance, transmission, or transportation of water, electrical power, forest products, oil, or gas, or both oil and gas, or solids as defined in the *Pipelines Act* of the Province of British Columbia, or for the disposal of sewage or any right-of-way of a like nature or for any purpose necessary for the operation and maintenance of the undertaking.

**"Utility"** includes poles, towers, structures, wires, pipes, pipelines, conduits, tunnels or excavations, either singly or in any number or combinations used principally but not exclusively by any gas, electric light, telephone, telegraph, power, pipeline or a water company, motor bus or electric trolley bus company, radio or television broadcasting company, or closed circuit television company, or any or more of them.

3. No Person shall place, or replace any Utility or structure on, in, over, under or along any Highway or Right-of-Way within the Reserve Commercial Lands without written approval of the Band Council.
4. The Band Council may declare any Utility or structure whether in existence at the date of adoption hereof or constructed pursuant to permits hereunder to be dangerous to public safety and may require the removal of any such Utility within a specified time at the sole cost and expense of the Owner thereof.

5. Applications for permission to place or replace any Utility on, in, over, under or along any Highway within the Reserve Commercial Lands shall be made in writing, be signed by the applicant or his authorized agent or signing officer, and be complete with three copies of plans of the proposed placement or replacement in such detail as the Band Council shall direct.
6. Upon approval, the Owner or authorized agent shall notify the Band Council in writing 48 hours prior to the commencement of any work on Rights-of-Way or Highways, if any, within the Reserve Commercial Lands.
7. A complete set of "constructed" drawings shall be submitted to the Band Council within 90 days after completion of any work carried out on the Rights-of-Way or Highways, if any, within the Reserve Commercial Lands. These drawings must conform to the requirements of the Band Council.
8. Every Person shall be held responsible for work performed on Highways and Rights-of-Way, if any, within the Reserve Commercial Lands for a period of time not exceeding one year from the date that the Band Council receives approved "as constructed" drawings.
9. Upon notice in writing from the Band Council, the applicant shall at his own expense, make all repairs arising out of defective materials and/or workmanship. Notice shall be given by registered mail, and if after 10 days, the applicant fails to make such repairs arising out of defective materials or workmanship, repairs may be made by the Band Council which shall be charged to the applicant. In the case of an emergency, where in the opinion of the Band Council, delay would cause serious loss or damage, repairs may be made without being sent to the applicant. All expenses incurred by the Band Council making such repairs shall be charged to the applicant, and shall be deemed a debt due the Band Council and shall be collected as the Band Council shall deem fit.
10.
  - (a) Every Person who violates any of the provisions of this By-Law or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this By-Law, or who neglects to do or refrains from doing anything required to be done by any of the provisions of this By-Law shall be deemed to be guilty of an offence against this By-Law and liable to the penalties hereby imposed.
  - (b) Every Person who commits an offence against this By-Law is liable upon summary conviction to a fine of not more than \$1,000 and not less than \$25.
11. The Band Council shall have the right and be authorized to appoint the District and any person appointed or engaged by the District, including the District Superintendent, to administer this By-Law and to carry out all the functions of the Band Council under this By-Law including, without limitation, the power to issue permits, authorizations, notices or certificates which the Band Council is empowered to issue under this By-Law and the power

to enforce this By-Law. Permits, authorizations, notices and certificates issued by the District or any person appointed or engaged by the District in accordance with this By-law and the Band Council's appointment of the District or such person shall be considered to have the same force and effect as if issued by the Band Council.

12. This By-Law may be amended by Band Council Resolution.

13. This By-Law is hereby enacted by the Band Council at a duly convened meeting of the Band Council this 6 day of September, 1996.

Voting in favor of the By-Law are the following members of the Band Council:

[Signature]

[Signature]

Gerald Roberts

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[Signature]

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

I, JOHN PATRICK HENDERSON, Chief of the Campbell River Indian Band, do hereby certify that a true copy of the foregoing By-Law was forwarded to the Minister of Indian and Northern Affairs pursuant to subsection 82.(1) of the *Indian Act*, the 6 day of September, 1996.

[Signature]  
John Patrick Henderson