

SKEETCHESTN INDIAN BAND

LAND USE BYLAW

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LAND USE BYLAW

WHEREAS the Skeetchestn Indian Band, at a Meeting of its Membership on September 25th, 1985 decided to implement a Land Use Bylaw based upon the traditional uses of its land, and;

WHEREAS the Skeetchestn Indian Band desires to develop its land in an orderly fashion, and;

WHEREAS the Council of the Skeetchestn Band is empowered under Section 81 (g), (h) and (r) of the Indian Act R.S., c. 149, s.I. to divide the Skeetchestn Reserve into zones for the development of said lands and construction of buildings;

NOW THEREFORE the Council of the Skeetchestn Band of Indians enacts the following by-law:

SHORT TITLE

This Bylaw is to be known as the Skeetchestn Indian Band Land Use Bylaw 1986-1.

DEFINITIONS

“Act”

means the Indian Act, R.S., c. 149, s.I.

“Band”

means the Skeetchestn Band of Indians.

“Band Land”

means all areas of the Reserve not held under Notice of Entitlement, Location Tickets or Certificates of Possession as duly authorized under the Act.

“Band Council”

means the Chief and Councillors as duly elected under Sections 73 – 80 of the Act or by means of the Custom of the Band as approved by the Minister of Indian Affairs and Northern Development.

“Band Member”

means any person who is registered by the Department of Indian Affairs as a Member of the

Skeetchestn Band of Indians. Collectively this may be called the Band Membership.

“Commercial Development”

means the establishment of a facility, structure or use of lands for goods or services for financial gain other than for the consumption of Band Membership.

“Elector”

means a Band Member who has reached their eighteenth birthday on or before the day of any vote which pertains to changes in this Bylaw.

“Traditional Use”

means the use which Band Members have utilized lands since the establishment of the Skeetchestn Reserve, and before, for the pursuit of livelihood, habitation, fishing, burial, religions and recreation purposes.

“Zone”

means an area of land on Skeetchestn Indian Reserve as geographically described in this Bylaw and for which specific uses are set out.

ZONES

- a) The Reserve shall be divided into zones as hereinafter set out, which zones shall perscribe the use of land within the boundaries of the zone.
- b) No land within the Reserve shall be used other than set out in the uses herein.
- c) Uses of zones may be further restricted by Band Council from those set out below if in the view of the Health and Welfare Canada Health Inspector the activity could create a safety or health danger to Band Members or residents of the Reserve, or if a petition of complaint based upon excessive noise, dust or annoyance is received by Band Council signed by fifteen electors or more.

Zone #1 Village Site

- Uses:
- Roads & Bridges
 - Band Members Homes
 - Community Buildings
 - Recreational Facilities
 - Cemetary
 - The location of wells, reservoir, community buildings, power lines, pipe lines, roads, bridges, and infra-structure for village and public works facilities
 - Family gardens and crop growing
 - Keeping small numbers of livestock

Zone #1 Geographical Description

The boundary commences at the northeast corner of lot 15 and extends due east to the 2000 foot contour; it proceeds south on the 2000 foot contour to a point due east of the most southerly point of lot 21; the boundary then proceeds due west to the most southerly point of lot 21; proceeds north along the western boundary of lot 21 to the northwest corner of lot 21; proceeding east on the northern boundary of lot 21 to the northeast corner of lot 21. The boundary proceeds north to the southeast corner of lot 20; proceeds north on the most westerly boundary of lot 20 to the northeast corner of lot 20; then proceeds west on the northern boundary of lot 20 to its northwest corner; it then proceeds from the northwest boundary of lot 20 to the midpoint of Deadmans Creek and proceeds south following the centerpoint of Deadmans Creek to a point due east of the southeast corner of lot 17; proceeds on the southern boundary of lot 17 to its southwest corner and proceeds from that point due west to the 1800 foot contour. The boundary proceeds north to a point on the 1800 foot contour to a point due west of the southwest corner of lot 12. This boundary then proceeds from that point to the southwest corner of lot 12; the boundary then proceeds along the southern boundary of lot 12 to a point due east of the southeast corner of lot 12 and which is the midstream of Deadmans Creek. The boundary proceeds midstream on Deadmans Creek in a southerly direction following course of midstream of the creek to a point due west of the juncture of lot 15 and Deadmans Creek. The boundary then proceeds easterly on the southern boundary of lot 15 to the southeast corner of lot 15. The

boundary proceeds north along the easterly boundary of lot 15 to its northeast corner where it then closes the boundary of the zone.

Zone #II Valley Bottom Land

- Uses:
- Agricultural and residential use for Band Membership
 - Commercial Development
 - Properties where possessionary rights are held under Notices of Entitlement, Certificates of Possession or by the Band and may be leased for agricultural and/or residential uses.
 - Irrigation systems and refuse sites as duly authorized by Band Council.

Zone #II: Geographical Description

Zone II consists of three areas. The boundaries are described as follows:

Zone #II Area #1 is formed by Lots 1 and 2.

Zone #II Area #II

The boundary starts at the intersection of the 2000 foot contour and the northeast boundary of Skeetchestn Indian Reserve and proceeds south to a point on the 2000 foot contour directly due west of the northeast corner of lot 15; and proceeds west to the northeast corner of lot 15; proceeds south to the southeast corner of lot 15; from that point proceeds west following the southern boundary of lot 15 to the intersection of lot 15 and Deadmans Creek. The boundary continues to the midstream point due east of the southeast corner of lot 12; proceeds west on the southern boundary of lot 12 to the southeast corner of lot 12 and proceeds west to a point due west until it intersects with the 1800 foot contour; it then proceeds north on the 1800 foot contour to the northern boundary of Skeetchestn Indian Reserve. The boundary then proceeds south and east on the Skeetchestn Indian Reserve boundary to close the boundary of the zone at the intersection of the Skeetchestn Indian Reserve boundary and the 2000 foot contour on the east side of Deadmans Creek.

Zone #II Area #III

The boundary commences at the intersection of the 2000 foot contour and the southeast boundary of Skeetchestn Indian Reserve; then continues due west to the 1700 foot contour. It then proceeds west and south following the 1700 foot contour to a point where the 1700 foot contour intersects with Plan 56972; continues northwest to the midpoint of Deadmans Creek. It then proceeds south midstream of Deadmans Creek to the intersection of the Trans Canada Highway, and continues north along the northern boundary of Trans Canada Highway to the 1800 foot contour west of Deadmans Creek Vidette Road. It then follows the 1800 foot contour to a point due west of the southwest corner of lot 17; and proceeds easterly to the southwest corner of lot 17. It then proceeds easterly along the southern boundary of lot 17 to Deadmans Creek, and due east to a point midstream of Deadmans Creek. It follows Deadmans Creek midstream south to point directly due west to a point northwest of lot 20. It proceeds to the northwest corner of lot 20 and proceeds along the northern boundary to its northeast corner. The boundary continues south to the northeast corner of lot 21; proceeds west on the northern boundary of lot 21 to the southwest corner and proceeds due east to a point which intersects the 2000 foot contour; and proceeds south on the 2000 foot contour to the southeastern boundary of Skeetchestn Indian Reserve at which point it then closes the boundary of the zone.

Zone #III Upland and Range

- Uses:
- Grazing of horses and cattle and corrals and watering facilities for the same.
 - Hunting and fishing.
 - The use of wood resources for Band Members' personal use (ie: cutting of posts, firewood, logs for construction)
 - Commercial logging or use of timber resources by Band for commercial use as approved by Band Membership prior to commercial logging or utilization.
 - Picking of herbs, roots and berries for Indian Medicine, food and traditional use.
 - Recreational uses such as hiking, swimming, skiing and horseback riding for Band Membership.
 - Commercial grazing as approved by Band Council.

ZONE #III Geographical Description

Zone #III consists of four areas. The boundaries are described as follows:

Zone #III Area #1

The boundary begins at the intersection of the northern boundary on the east side of the Deadmans Creek at the 2000 foot contour level and proceeds south following the 2000 foot contour level to a point due east of the northeast corner of lot 15; it proceeds to a point due east of the southern most point of lot 21 remaining on the 2000 foot contour level. From that point it proceeds south following the 2000 foot contour level until it intersects with the eastern boundary of Skeetchestn Indian Reserve; from that point it proceeds north on the eastern boundary of Skeetchestn Indian Reserve then proceeds east to the 2000 foot contour level and closes the boundary of the zone at that intersection on the northern boundary.

Zone #III Area #II

The boundary commences at the intersection of the 2000 foot contour and the eastern boundary of Skeetchestn Indian Reserve. From that point the boundary proceeds due west to a point which intersects with the 1700 foot contour. The boundary then proceeds south in a northwest direction along the northern boundary of Plan 56972 to the midstream point of Deadmans Creek. It then proceeds south along midstream of Deadmans Creek to the point of Parcel F and Deadmans Creek intersection. It proceeds due west to the 1400 foot contour and from that point proceeds south following the southeast boundary of parcel D, Plan 53134; at the southeast corner of Parcel D, it proceeds west following this boundary to its most west point at the boundary of Parcel G, Plan 56129. It then proceeds south from that point along the boundary of parcel G Plan 56129 to the southern boundary of Skeetchestn Indian Reserve. It then follows the southern boundary of Skeetchestn Indian Reserve eastward to the southeast corner of the Skeetchestn Indian Reserve on the Thompson River; proceeds north to the intersection of the 2000 foot contour and the easterly boundary of Skeetchestn Indian Reserve and closes the boundary of the zone at that point.

Zone #III Area #III

The boundary commences at the juncture of the northern boundary of the Trans Canada Highway and the southwestern boundary of Skeetchestn Indian Reserve. The boundary proceeds north following the western boundary of Skeetchestn Indian Reserve to the point where it intersects with the southern boundary of lot 1. It proceeds east on the southern boundary of lot 1 and lot 2 to the point where the southeastern boundary of lot 2 intersects with the northwestern boundary of Skeetchestn Indian Reserve; proceeds southeasterly on the northeast boundary of Skeetchestn Indian Reserve to the intersection of the 1800 foot contour west of Deadmans Creek. The boundary proceeds south on the 1800 foot contour to the northern boundary of the Trans Canada Highway; proceeds west on the northern boundary of the Trans Canada Highway to the point where that boundary intersects with the western boundary on Skeetchestn Indian Reserve where the boundary closes that zone.

Zone #III Area #IV

The Boundary commences at the intersection of the western boundary of the Skeetchestn Indian Reserve and north boundary of lot 1 and proceeds north to the northwestern corner of the Skeetchestn Indian Band. It then proceeds west and northeast to the point where Skeetchestn Indian Reserve boundary intercepts with Clemes Creek which is the northeasterly boundary of Skeetchestn Indian Reserve. It continues south on the northeastern boundary of Skeetchestn Indian Reserve to the intersection of the boundary of the Skeetchestn Indian Reserve and lot 1. It proceeds westerly on the northern boundary of lot 1 to the western boundary of Skeetchestn Indian Reserve to close the boundary area of the zone.

Zone #IV Agricultural Land

- Uses:
- Growing of agricultural crops.
 - Grazing of cattle as duly approved by Council.
 - Commercial leasing to Band members and Non-Band Members for Agricultural use only (as approved by Band Council).
 - Storing of equipment, irrigation systems, and crops.
 - Residential is restricted to buildings already constructed at the time of this bylaw being implemented.

Zone #IV: Geographical Description

The boundaries are described as follows:

The boundary begins at the southwestern boundary of the Skeetchestn Indian Reserve where it meets the south boundary side of the Trans Canada Highway. The boundary extends south along the boundary of Skeetchestn Indian Reserve to its southwest corner where it meets the Thompson River, and proceeds east along the southern boundary of the Skeetchestn Indian Reserve including subplot plan M2109 to the southeastern corner of Parcel G. It proceeds in a northeast direction on the southeasterly boundary of Parcel G Plan 56129 to a point where it intersects with the southern boundary of parcel D Plan 53134. The boundary continues southeast on the southern boundary of parcel D and follows the boundary of Parcel D to the intersection with the southern boundary of the Trans Canada Highway. It continues north and west on the boundary of the Trans Canada Highway to appoint where the southern boundary of the Trans Canada Highway intersects with the southwest boundary of the Skeetchestn Indian Reserve therefore closing the boundary of that zone.

Zone #V Commercial (Band Land)

- Uses:
- Posting commercial highway signs which have been duly approved under permit by Band Council.
 - The establishment for storage, retail sales, commercial recreational facilities.
 - Infra-structure for commercial facilities including accommodation for persons operating retail facilities.
 - Parking and frontage roadways.
 - Grazing and keeping of animals.
 - Leasing to Band Members and Non-Band Members for the above stated purposes in this section.

Zone #V: Geographical Description

Notwithstanding the boundaries set out in Zone I, II, III, and IV, the boundaries of Zone V are set out as follows:

1. A buffer strip extending 150 metres on each side of the Trans Canada Highway from the easternmost boundaries of the Skeetchestn Indian Reserve to the western boundary of the Skeetchestn Indian Reserve.

Zone #VI Heritage & Historical Reserves

- Uses:
- Maintenance of fisheries facilities.
 - Protection of burial sites, heritage sites and cultural sites.
 - Recreational use which preserves and protects heritage fishing and burial sites.

Zone #VI: Geographical Description

Notwithstanding the boundaries set out in Zones I, II, III, and IV, this area is set out as reaching 150 metres north of the southern boundary of Skeetchestn Indian Reserve from its westerly boundary to its eastern boundary and includes subplot Plan M2109. Other areas within the Skeetchestn Indian Reserve may be designated with this zone classified from time to time by means of a duly approved Band Council Resolution, but may not be declassified without following procedures set out in Section 5.

Commercial Development

Commercial Development may only be developed on Skeetchestn Reserve using the following procedures:

- a) Prior to the development of Commercial Development, plans must be submitted to the Band Membership at a duly convened General Band Meeting for discussion.
- b) Prior to the development Commercial Development plans must have the approval of the Health and Welfare Canada Health Inspector, Canada Mortgage and Housing Building inspector and other appropriate licencing agencies if the development includes structure or physical facilities being constructed.

- c) Prior to the development of Commercial Development, a permit must be issued by the Band Council allowing the Development to proceed.
- d) Any costs involved in the acquisition of appropriate permits are the responsibility of the person or group engaged in Commercial Development.

Legal Description

- a) All legal descriptions are as established in Chronoflex Plan No. 52950 CLSR (Ottawa) or any other legal descriptions as registered by CLSR (Ottawa) effective the date of March 15, 1986 and as set out in the attached map in Schedule I.
- b) Zones I, II, III, and IV are set out on Appendix I to this Bylaw which constitutes part of this Bylaw any discrepancies between Appendix I and the working included in this Bylaw, the wording will take precedence.

Amendment or Changes to Use of Zones or Boundaries of Zones

Band Council may make only changes to the boundaries of the zones or to change the use of the zones using the following procedures:

- a) Band Members Acceptance of Changes or Amendments to This Bylaw
Band Council must receive the approval of 75% of the Band electors to make amendments or changes to this Bylaw.
- b) Notification of Changes or Amendments
 - i) Band Council must present, not less than 30 days prior to a vote for a change or amendment, written notification (to each available elector) the exact wording of the boundary changes and/or the amendment and a copy of the wording prior to the proposed changes. In addition, the Band Council must provide, at the same time, the reason, in full, for the proposed changes or the amendment.
 - ii) Band Council must hold a full discussion of the proposed changes at least one duly convened Band Membership meeting. Notices of this meeting must be circulated to all electors, where possible. The meeting is to be held no less than

two weeks prior to the vote on the changes. The notice must have the proposed amendment or changes itemized as an agenda item. The purpose of the discussion will be to fully explain the proposed changes.

c) The Vote

- i) The vote to make changes or amendments must be held by Secret Ballot.
- ii) The Band Council shall set aside a day, at least 30 days after the notification of the vote, for Band Members to cast ballots on the proposed changes and/or amendments.
- iii) A list of electors shall be established and each elector will be entitled to one vote.
- iv) A polling officer will open the poll at 8:00 A.M. and close it at 8:00 PM. During that time he will receive electors, ensure they are not voting more than once, shall ensure their voting is one in secret and shall ensure a ballot box is kept to hold the ballots in secret until they are counted. He will provide assistance where an elector is handicapped or does not understand English.
- v) The polling officer cannot be an elector and is to be appointed by Band Council 38 days prior to the voting date.
- vi) At 8:00 PM the polling officer shall, in the view of all electors present, count the votes and immediately report the result to any electors present.
- vii) He shall keep all ballots for 30 days in the event of a recount being requested. The ballots shall be kept under seal.
- viii) The ballots shall be prepared in such a way as to show the wording of the change or amendments prior to the change being made and include the wording of the proposed change being made and include the wording of the proposed changes. Each shall be prefaced in the following way respectively:

(The Original wording)

(The proposed Change)

A space shall be made in the form of a square for the elector to mark his choice beside each alternative.

- ix) Once a vote is taken a new vote on the same issue may not be made for six months.

Penalties

Any person interfering with the provisions of this Bylaw, or not complying with the provisions of this Bylaw shall be deemed to have committed an offence under the Act and is subject to punishment contained therein.

Severability

If any provision of this Bylaw is found invalid such provision is severable.

Gender and Plurality

In this Bylaw any words in the singular include the plural and words in the masculine include the feminine where the context requires.

Passed by a motion of Council at a duly convened Meeting on the 29th day of May, 1986.