

KÁTŁ'ODEECHE FIRST NATION



ZONING BYLAW 2019

**KÁTŁ'ODEECHE FIRST NATION
HAY RIVER DENE RESERVE NO. 1**

**ZONING BYLAW
2019**

BYLAW 2019-01 OF THE KÁTŁ'ODEECHE FIRST NATION (ALSO KNOWN AS THE HAY RIVER DENE BAND): A BYLAW DIVIDING THE HAY RIVER DENE RESERVE NO. 1 INTO ZONES AND REGULATING THE USE OF LAND.

BAND COUNCIL RESOLUTION

ZONING LAW

DO HEREBY RESOLVE:

WHEREAS The Chief and Council of the Kátł'odeeche First Nation ("First Nation"), derive their authority from and are responsible to the membership of the First Nation for the peace, order and good government of the residents of the Hay River Reserve (the "Reserve");

AND WHEREAS The Chief and Council of the First Nation have been authorized to be the governing body of the residents of the Reserve by the membership of the First Nation pursuant to tribal custom;

AND WHEREAS the Council of the First Nation desires to make a Bylaw dividing the reserve into zones and regulating the use of land;

AND WHEREAS the First Nation has had a zoning bylaw in place since 1997;

AND WHEREAS the Council of the First Nation is empowered to make this bylaw pursuant to paragraphs 81(1)(g), (h), (q), and (r) of the *Indian Act*, R.S.C. 1985, c I-5;

AND WHEREAS it is the intention of the First Nation to develop a Land Code and transition to operate under the Framework Agreement on First Nation Land Management under the *First Nations Land Management Act*, S.C. 1999, c. 24, s. 20(4) of which provides that, in the event of any inconsistency or conflict between the land code of a First Nation and the provisions of a First Nation law or of a bylaw made by its council under section 81 of the *Indian Act*, the land code prevails to the extent of the inconsistency or conflict;

NOW THEREFORE the Council of the Kátł'odeeche First Nation hereby makes the following Zoning Bylaw:

DATED effective this 31st day of January, 2020.


Quorum _____

(KFN Chief)



(KFN Councillor)

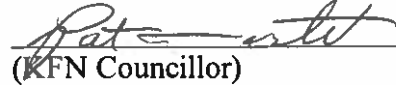
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PART I - GENERAL

Short Title

1. This Bylaw may be cited as the “Kátł’odeeche First Nation Zoning Bylaw”.

Amendment and Coming into Force

- 1.1 Bylaw 1996-01, and any other former or previous Bylaw of Kátł’odeeche First Nation is repealed and replaced with this Bylaw.
- 1.2 This Bylaw shall come into force and effect on the date it is passed by Council Resolution.
- 1.3 On the coming into force of a land code of the First Nation under the *First Nations Land Management Act*:
 - i) in the event of any inconsistency between this bylaw and said land code, the land code shall prevail; and
 - ii) otherwise, this bylaw shall continue to be in full force and effect until repealed or amended pursuant to *First Nations Land Management Act* or an instrument enacted pursuant to it, including, for greater certainty, the land code.

Definitions

2. In this Bylaw,
 - 2.1 “*Accessory building or structure*” means a detached building or structure, the use of which is incidental or secondary to that of the main building;
 - 2.2 “*Accessory use*” means a use incidental and secondary to the principal use of the property;
 - 2.3 “*Agriculture*” means a use of land, buildings or structures for the purpose of field crops or market gardening, dairies, animal husbandry, poultry raising, bee keeping and such uses as are customarily and normally related to agriculture, inclusive of using land for the growing of sod, flowers, bushes, trees or other gardening, landscaping or orchard stock for wholesale or retail trade;
 - 2.4 “*Assembly hall*” means a building or part of a building in which facilities are provided for such purposes as meetings for civic, education, political, religious or social purposes, and includes a banquet hall;
 - 2.5 “*Attached*” means a building otherwise complete in itself, which depends for structural support, or complete enclosure, upon a division wall of walls shared in common with adjacent building or buildings;
 - 2.6 “*Building*” means any structure used or designed to be used for shelter, accommodation

or enclosure of persons, animals, or property;

- 2.7 “*Campground*” means a parcel of land providing for a seasonal and temporary accommodation of travelers using tents or recreational vehicles, but specifically excludes a mobile home park or hotel;
- 2.8 “*Commercial Farm*” means any farm that is used for any purposes other than those of a non-commercial farm.
- 2.9 “*Caretaker unit*” means a dwelling unit for a caretaker (and his/her dependents) required to be present on a premises at all times for the proper operation or maintenance of the facilities;
- 2.10 “*Community centre*” means any tract of land or buildings or any part of any buildings used for community activities, whether used for commercial purposes or not, and the control of which is vested in the Kátł’odeeche First Nation, a local board or agent thereof;
- 2.11 “*Community commercial*” means the use of land for a commercial establishment normally found in a community, such as convenience stores and personal service shops either alone or complex with residential, community use, and, or recreational uses. But, specifically excluded business deemed to be highway commercial or that create a nuisance;
- 2.12 “*Convenience store*” means a retail commercial establishment supplying groceries, sundries and other daily household necessities to the immediately surrounding area;
- 2.13 “*Cottage*” means a dwelling unit used on a seasonal basis for recreational purposes;
- 2.14 “*Cottage industry*” means a use accessory to a dwelling, and includes activities such as a carpentry shop, a craft shop, a plumbing shop, a metal working shop, a welding shop, a storage building for school buses, boats or snowmobiles, a repair shop for farm equipment, or any similar use;
- 2.15 “*Council*” means the Band Council as defined in the *Indian Act* or the *First Nations Land Management Act*, as the case may be;
- 2.16 “*Discretionary use*” is a use listed for a Zone which may proceed provided that, in the judgment of the Zoning Administrator, the proposal:
- i) will meet the site regulations of the Zone;
 - ii) will meet the general intent and purpose of the Land Use Plan
 - iii) will be compatible with the environmental limitations of the land and with adjacent properties in terms of the proposed size, shape, and arrangement of buildings and structures, vehicle parking and access, storage areas, landscaping, and any other site features being proposed; and
 - iv) will be able to comply with any conditions that will be applied to the approval of the Development Permit by the Zoning Administrator.

- 2.17 “*Dwelling unit*” means one or more habitable rooms designed for use by and occupied by not more than one family and in which separate kitchen and sanitary facilities are provided for the exclusive use of such a family, with a private entrance from outside the building or from a common hallway or stairway inside the building;
- i) “*dwelling - one family*” means a separate building containing only one dwelling unit;
 - ii) “*dwelling - duplex*” means a separate building containing only two dwelling units, each of which has an independent entrance, either directly from outside, or through a common vestibule;
 - iii) “*dwelling - triplex*” means the whole of a building that is divided into three separate dwelling units, each of which has an independent entrance, either directly from the outside, or through a common vestibule;
- 2.18 “*Dwelling unit area*” means the floor area of a dwelling unit measured between the exterior faces of the exterior walls of the dwelling unit;
- 2.19 “*Eating establishment*” means a building or part of a building where food is offered for sale or sold to the public for immediate consumption therein, and includes a restaurant, cafe, tea or lunch room, dairy bar, and refreshment room or stand, but does not include a boarding or lodging house;
- 2.20 “*Erect*” means build, construct, reconstruct, or relocate, and includes any preliminary physical operations such as cutting, grading, excavating, filling or draining, and any altering of an existing building by an addition, extension or other structural change;
- 2.21 “*Farm*” means land used for the tillage of soil and the growing of vegetables, grains and other staple crops, and includes land used for livestock raising, dairying or woodlots;
- 2.22 “*Farm Produce Outlet*” means a building or structure where farm produce is sold for a commercial profit.
- 2.23 “*First Nation*” means the Hay River Dene Band, also referred to as Kátł’odeeche First Nation.
- 2.24 “*Forestry*” means the management, development and cultivation of timber resources to ensure the continuous production of wood or wood products, provision of proper environmental conditions for wildlife, protection against floods and erosion, protection and production of water supplies, and preservation of the recreation resource;
- 2.25 “*Framework Agreement*” means the Framework Agreement on First Nation Land Management concluded between Her Majesty in right of Canada and the First Nations on February 12, 1996, and includes any amendments to the Agreement made pursuant to its provisions.
- 2.26 “*Gravel pit*” means any open excavation made for the removal of any soil, earth, clay, marl, sand, gravel or unconsolidated rock or mineral in order to supply material for

construction, manufacturing or industrial purposes;

- 2.27 “*Group home*” a single housekeeping unit in a residential dwelling in which three to ten residents live as a family under responsible supervision and shall be licensed under Territorial Statute, and may also include a non-residential special needs group facility such as a group school;
- 2.28 “*Heavy industry*” means the use of land, buildings or structures for the storage, collection, processing, repairing, salvage or recycling of a product, article, substance, material, fabric or compound and includes vehicle wreck yards, gravel stockpile areas, but specifically excludes waste disposal sites.
- 2.29 “*Height*” means, when used with reference to a building, the vertical distance between the average elevation of the finished surface of the ground at the front of the building and
- i) in the case of a flat roof, the highest point of the roof surface or the parapet, whichever is the greater,
 - ii) in the case of a mansard roof, the deck roof line, and
 - iii) in the case of a gable, hip or gambrel roof, the mean height between the eaves and ridge.
- 2.30 “*Home business*” means any business conducted within a dwelling unit.
- 2.31 “*Hotel/Motel*” means the use of land for the provision of rooms or suites for temporary sleeping accommodation of tourists and transients. Hotels and motels may include accessory eating establishments, meeting rooms, and personal service shops;
- 2.32 “*Industry*” is defined as either “heavy industry” or “light industry”;
- 2.33 “*Interest holder*” is the holder of a property interest in land granted under the *Indian Act* or *First Nations Land Management Act*, as the case may be.
- 2.34 “*Land use plan*” means a document that sets out proposals for future development on the reserve and is accompanied by maps and charts;
- 2.35 “*Light industry*” means the use of land for wholesale, warehousing, testing, service, repair or maintenance of an article, substance, material, fabric or compound; and includes artisan and manufacturing shop and retail sales accessory to the principle use;
- 2.36 “*Mobile home*” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed, and does not include a modular home;
- 2.37 “*Non-Commercial Farm*” means a use of land for:
- i) small scale agriculture;
 - ii) non-commercial agricultural pursuits ancillary to rural residential uses;

- iii) and
animals which are kept for the use or enjoyment of the householder only
and not for financial gain.
- 2.38 “*Non-conforming*” means that which does not conform, comply or agree with the provisions of this Bylaw as of the comes into force;
- 2.39 “*Noxious use*” means any use which is offensive or dangerous by reason of the emission of odour, smoke, dust, noise, gas, fumes, vibration or refuse matter;
- 2.40 “*Permit*” means a Development Permit issued subject to this Bylaw, as shown in the form of Appendix A;
- 2.41 “*Personal service shops*” means a use whereby professional or personal services are provided and the sale of goods, wares, merchandise, articles or things accessory to the provision of such services and includes barber shops, beauty salons, shoe repair shop, dry cleaning shop and laundry mats;
- 2.42 “*Public building*” means a development which is publicly owned, supported or subsidized involving public assembly or use including public schools, hospitals, recreation areas, government services, libraries, and arenas;
- 2.43 “*Restaurant*” means a building or part of a building where food is offered for sale or sold to the public for immediate consumption therein, but does not include a boarding or lodging home;
- 2.44 “*Reserve*” means Hay River Dene Reserve No. 1;
- 2.45 “*Retail store*” means a building or part of a building in which goods, wares, merchandise, substance, articles or things are offered or kept for sale at retail;
- 2.46 “*Setback*” means the right angle distance from a lot line or street boundary to the nearest part of the main building on the lot (as shown on the following page);
- 2.47 “*Similar use*” is a use which, in the judgment of the Zoning Administrator, is similar in nature to a Permitted Use listed for the Zone.
- 2.48 “*Temporary use*” means a development for which a development Permit has been issued for a limited time only;
- 2.49 “*Traditional Dene Activities*” means those harvesting and natural resource processing activities being carried out as an expression of a treaty or inherent Aboriginal right;
- 2.50 “*Water setback*” means the straight-line horizontal distance from the high water mark of a watercourse, bay or lake to the nearest part of any excavation, building, structure or open storage use on the land;
- 2.51 “*Zone*” means a designated area of land use as shown on the Land Use Plan portion of

the attached Land Use Plan map; and

- 2.52 “*Zoning Administrator*” means the person appointed or designated by the Council under this Bylaw and charged with the duty of administering and enforcing the provisions of this Bylaw.
- 2.53 Terms that are not defined above have the same meaning as in the *Indian Act* or *First Nations Land Management Act* (FNLMA), in the instance of any conflict, the definition in the FNLMA, including any land code or law duly approved thereunder, shall prevail.
- 2.54 All monetary amounts referred to are in Canadian currency.

Interpretation

- 2.55 The headings of parts and sections in this Bylaw have been inserted as a matter of convenience and for reference only and in no way define or limit or vary any of its provisions.
- 2.56 In the event that all or any part of any section or sections of this Bylaw are found by a court of competent jurisdiction to be invalid, such sections shall be severable, and the remaining sections shall remain in full force and effect.

Application and Intent of this Bylaw

3. (1) The provisions of this Bylaw apply to all lands of the Reserve as shown on the *Land Use Plan*.
- (2) The Land Use Plan, as attached hereto as schedule A, is a part of this Bylaw as fully and to all intents and purposes as though recited in full herein.
- (3) The intent of this Bylaw is to:
- i) protect traditional use areas and culturally sensitive and significant areas from inappropriate development;
 - ii) Provide security for private and public investment in the Reserve;
 - iii) assist in the implementation of the Land Use Plan.

Notice

- 3.1 Any notice the Council or Zoning Administrator are required to provide under this Bylaw may be served personally or sent by registered mail, provided that where the notice is sent by registered mail, it shall be deemed to be received by the addressee on the fifth day after it is mailed.

Fees

- 3.2 Council may, by Band Council Resolution, adopt a fee schedule for:
- i) development permits;
 - ii) fines;

- iii) penalties; and
- iv) any other appropriate fees under this Bylaw.

- 3.3 A fee schedule is deemed to be a provision of this Bylaw.
- 3.4 Council shall post fee schedules at the Band Office
- 3.4 In the event of an inconsistency between this Bylaw and a fee schedule, the fee schedule prevails to the extent of the inconsistency or conflict.
- 3.5 For greater certainty, a fee schedule under 3.2(i) may differentiate applicable fee rates between Band and non-Band members.

PART II - ADMINISTRATION AND GENERAL ZONING PROVISIONS

Zoning Administrator

- 4. (1) The Council shall, by Band Council Resolution, appoint a Zoning Administrator to administer and enforce this Bylaw.
- (2) The duties of the Zoning Administrator include, without limitation:
 - i) Providing information to interest holders about this Bylaw;
 - ii) Receiving, filing and processing Bylaw Development Permits and Bylaw Amendment applications;
 - iii) Preparing, posting and distributing Bylaw notices;
 - iv) Keeping and maintaining, for the information of First Nation members, copies of this Bylaw, Development Permits and Bylaw Amendments and copies of all Bylaw applications, appeals, notices and Council decisions; and
 - v) Carrying out all Bylaw approval, inspection and enforcement activities.
- (3) The Zoning Administrator is authorized to accept or refuse the issuance of all Development Permits in accordance with the requirements outlined in this Bylaw.
- (4) If a Zoning Administrator is not properly appointed or the position should be vacant, the Council shall exercise all such powers directly until such time as a Zoning Administrator is appointed under subsection 4(1).

Development Permit and Appeals

- 5. (1) A building or structure shall not be erected or altered and the use of any land, building or structure shall not be changed, in whole or in part, except in conformity with the provisions of this Bylaw and a Development Permit.
- (2) An application for a Development Permit shall be in the form of Appendix A and include any applicable fee.

- (3) In determining whether to issue a Development Permit, the Zoning Administrator shall review each Development Permit application to ascertain whether the proposed land use conforms to:
 - i) the provisions of this Bylaw and its Maps;
 - ii) the Land Use Plan, and any other applicable KFN Bylaws;
 - iii) the environmental impact of the proposed land use;
 - iv) the lease for lands and that a valid survey of the lands is in place;
 - v) the conditions of any permit, interest, pre-existing interest, caveat, covenant, site plan, and/or agreement;
 - vi) the conditions of any easement or any other instruments affecting a building or land; and
 - vii) any conditions that will be applied to the approval.

- (4) Upon completing this review, the Zoning Administrator shall determine whether the application for development of a Permitted Use conforms to this Bylaw. Where it does conform, the Zoning Administrator shall issue the Development Permit. Where it does not conform, the Zoning Administrator shall:
 - i) issue the Development Permit subject to conditions that bring it into conformity; or
 - ii) refuse the application for development.

- (5) The decision to issue or refuse a Development Permit shall be issued in the form of Appendix A. The Zoning Administrator may attach conditions to the issuance of the permit.
 - (5.1) Within 10 days of reaching a decision regarding an application, the Zoning Administrator shall provide notice in writing to the applicant and post the decision in the Band Office. Where the application has been refused, the Zoning Administrator shall include in the notice the reason for the refusal.

- (6) A Development Permit is valid for a period of 24 months from the date of issue. If at the expiry of this period, the development has not been commenced or carried out with reasonable diligence, the permit shall be null and void.
 - (6.1) The Zoning Administrator has the authority to decide if the development has been commenced or carried out with reasonable diligence.

- (7) A decision by the Zoning Administrator may be appealed within 14 days from the posting of the decision in the Band Office by:
 - i) any First Nation member whose interest may be affected by the Permitted Use; or
 - ii) the applicant for which the Permit has been refused.

- (8) An appeal shall be made to the Council in the form of Appendix C and include

any applicable fee.

- (9) If an appeal is commenced pursuant to subsection 5(7), the decision of the Zoning Administrator is stayed pending the decision of the Council.
- (10) In deciding the appeal, Council shall take into consideration:
 - i) the provisions of this Bylaw;
 - ii) the Land Use Plan;
 - iii) the environmental limitations of the land in question; and
 - iv) any other factor(s) which Council feel is/are relevant.
- (11) After giving the appellant a reasonable opportunity to be heard, Council may uphold, disallow or vary the decision of the Zoning Administrator based on the factors for consideration outlined in subsection (10).
- (12) The procedure for a hearing in sections 24, 25, 26, 31 and 33 of this Bylaw apply.
- (13) The decision of the Council shall be in the form of Appendix D.

Duties of the Interest Holder or Developer

- 6.1 Neither the granting of a development permit nor any inspections made by the Zoning Administrator shall in any way relieve the holder of a Development Permit of the responsibility of complying with the First Nation's Bylaws.
- 6.2 The interest holder shall:
 - i) permit the Zoning Administrator to enter any building or premise for the purpose of administering or enforcing this Regulation at all reasonable times and with the consent of the owner in accordance with section 31 of this Bylaw;
 - ii) after the development permit has been issued, notify the Zoning Administrator and obtain his/her approval before doing any work at variance with the approved documents filed; and
 - iii) be responsible for obtaining, where applicable, other permits or approvals required in connection with the proposed work.

Prohibition

7. (1) No building or structure shall thereafter be erected or altered, nor shall the use of any land, building or structure hereafter be changed, in whole or in part, except in conformity with the provisions of this Bylaw.
- (2) Notwithstanding any other Bylaw of the Council, no Development Permit shall be issued where the proposed building, structure or use would be in violation of any provision of this Bylaw.

Non-Conforming Uses

8. (1) Subject to subsection (2), nothing in this Bylaw prevents the use of any land, building or structure for any purpose prohibited by the Bylaw if such land, building or structure was lawfully used for such purpose on the day this Bylaw came into force, so long as it continues to be used for that purpose.
- (2) If a building or structure which does not conform with the requirements of this Bylaw with respect to use, lot occupancy, or height is destroyed, said building or structure may be restored to its original dimensions and strengthened to a safe condition provided that such restoration or strengthening does not further increase the extent of non-conformity of such building or structure, and provided that all other applicable provisions of this Bylaw is complied with and the use is not a noxious use.

Prior Building Permits

9. Nothing in this Bylaw prohibits the erection of a building or structure for which a Development Permit was issued pursuant to Bylaw 1996-01.

Exceptions to Height Limitations

10. The height limitations of this Bylaw do not apply to chimneys, church spires, public buildings, water tanks, elevator enclosures, flag poles, television or radio antennae, electrical transmission facilities, ventilators or skylights.

Accessory Buildings and Structures

11. Accessory buildings and structures, including private garages, are permitted in any zone within the Reserve, but shall not:
 - i) be used for human habitation, except where a dwelling is a permitted in the Industrial (I) Zone;
 - ii) exceed four (4) metres in height;
 - iii) be built within three (3) metres of or attached to the main building; or

Temporary Construction Uses Permitted

12. Nothing in this Bylaw prevents uses incidental to construction, such as a construction camp or other such temporary work camp, a tool shed, scaffold or other building or structure incidental to the construction, or a sign not more than four and one-half (4.5) square metres in area incidental to the construction. These uses are permitted only for as long as they are necessary for work in progress which has neither been finished nor abandoned.

Occupancy of Incomplete Buildings

13. In any land use zone, no new buildings or structures shall be occupied before the main side walls and roof have been erected and roofing has been completed and, in the case of a dwelling, kitchen, heating and sanitary conveniences have been installed and rendered useful.

Setbacks

14. The minimum yard requirements for buildings and structures shall be calculated from the edges of road rights-of-way and high water marks:

i)	Northwest Territories highway	60 metre right-of-way
ii)	Reserve access road	30 metre right-of-way
iii)	other roads	20 metre right-of-way
iv)	water (except for boathouses and docks)	30 metre setback

Mobile Homes

15. Mobile homes are permitted on the reserve as allowed by this Bylaw.

Home Businesses

16. A home business is permitted in a Housing Zone if:
- i) only residents of the premises are engaged in the home business;
 - ii) there is no external display or advertising other than a non-illuminated sign, not more than three tenths of a square metre (.3 m²) in area, to indicate to persons outside that any part of the dwelling unit or lot is being used for a purpose other than residential;
 - iii) not more than 25% of the dwelling unit area is used for the purpose of the home business;
 - iv) the home business is secondary to the main residential use and does not change the residential character of the dwelling home or dwelling unit;
 - v) there are no goods, wares or merchandise, other than those produced on the premises, offered or exposed for sale or rent on the premises;
 - vi) the home business does not create or become a nuisance in regard to noise, traffic, storage, emissions, refuse, external lighting or parking;
 - vii) the home business does not interfere with television or radio reception; and
 - viii) any accessory building or structure or private garage is not used for the home business.

Noxious Uses

17. No use is permitted on the Reserve which is offensive or dangerous by reason of the use or storage of dangerous materials, or the emission of odour, smoke, dust, noise, gas, fumes, vibration or refuse matter, or which from its nature or the materials used therein is declared to be a noxious trade, business or manufacturer under the Northwest Territories *Public Health Act*, or *Environmental Protection Act*, and their regulations.

Cottage Industries

18. A cottage industry is permitted in a Housing Zone as a Discretionary Use if:
- i) not more than 25% of the dwelling unit area is used for the cottage industry;
 - ii) not more than 50% floor area of any accessory building is used for the cottage industry;
 - iii) not more than five persons, other than those residing on the premises, are engaged on the premises in the cottage industry; and
 - iv) the cottage industry will be able to comply with any conditions that will be applied to the approval of the Development Permit Zoning Administrator.

Gravel Pits, Stone Quarries

19. Gravel pits and stone quarries are prohibited, except when authorized in a Permit issued by the Zoning Administrator.

Multiple Uses

20. Where any land or building is used for more than one purpose, all provisions of this Bylaw relating to each use shall be satisfied and, where there is a conflict, the higher or more stringent standard shall prevail.

Flood Risk Provisions

Purpose

21. (a) The purpose of these provisions are to regulate the development of flood hazard areas on the Reserve so as to promote the public health, safety and general welfare and to minimize the adverse effects of periodic inundation including but not limited to loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief. Accordingly the provisions contained herein are so designed to:
- i) restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood-stage elevations or water velocities;
 - ii) require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction; and
 - iii) protect individuals from using lands which are unsuited for intended purposes because of flood risk.

Warning and Disclaimer of Liability

- (b) The degree of flood protection intended to be provided by this Bylaw is considered reasonable for regulatory purposes and is based on historical records and engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These provisions do not imply that areas outside the flood risk area boundaries will always be totally free from flooding or flood damages. Nor shall these provisions create a liability on the part of, or be a cause of, action against the Council or any officer or employee thereof for any flood damages that may result from reliance on these provisions.

Non-Conforming Structures

- (c) Any existing structures that do not meet the required flood proofing standards equal to or above the National Building Code of Canada and/or the Canada Mortgage and Housing Corporation Technical Builders Bulletin or that the first floor is not equal or above the anticipated flood elevation shall be considered non-conforming until such time as the structure may be brought up to meet the standards.

Fill and Dredging

- (d) An environmental assessment shall be required under KFN Law, the *Mackenzie Valley Land and Resource Management Act* (MVMRA), or any other applicable environmental legislation, for any fill or dredging activities that may impact upon flood carrying capacity and the extent of the flood risk area. This material shall be forwarded to the appropriate federal agency for review and comment as to acceptability of these proposed actions before proceeding with any development decision.

Flood Risk Districts

- (e) The flood risk areas to which these provisions are applicable have been divided into two areas, a Flood way Area and a Flood way Fringe Area. For greater certainty refer to the *Hay River Flood Risk Mapping* as approved by the Government of the Northwest Territories on May 29 1984, or as has or may be updated from time-to-time.

Flood way District

- (f) No use shall adversely affect the efficiency or unduly restrict the conveyance/storage capacity of the flood way or of any tributary to the main watercourse or water body, drainage ditch or any other drainage facility.
- (g) the conveyance/storage capacity of the flood way shall not be diminished so as to cause excessive increases in flood stage elevations or in water velocities during a flood event. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach either on both sides of the watercourse or along

the shoreline of a water body.

- (h) Any fill proposed to be deposited in the flood way must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve the purposes, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials. Such fill or other materials shall be protected against erosion by rip-rap, compacting, bulk-heading, or some other approved method of preventing erosion.
- (i) The storage or processing of materials that are, in time of flooding buoyant, flammable, explosive, toxic or that could be injurious to human, animal or plant life, is prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods and if firmly anchored to prevent floatation or readily removable from the area within the time available after flood warning.

Flood way Fringe District

- (j) The purpose of the Flood way Fringe District is to reduce the flood vulnerability of uses and structures located in that portion of the flood risk area so designated by requiring that all further undertakings be flood proofed, and to minimize the threat to public safety, health and welfare that may occur during a flood event of a frequency equal to or higher than that of the design flood event. The flooding fringe is generally characterized by water velocities of less than 1.0 metres (3.3 feet) per second and flood stage elevations of less than 1.0 metre (3.3 feet). These provisions comply with the Canada Mortgage and Housing Corporation Design and Durability Requirements for new construction under the National Housing Act, including as amended or in any successor policy or legislation
- (k) Only structures that are flood proofed by raising their first floor above the anticipated maximum flood way fringe elevation or are designed and constructed as to be watertight and have sufficient structural integrity to withstand the hydrostatic and hydrodynamic pressures and other factors associated with inundation including but not limited to the impact of water-borne debris floating in water flowing at a rate of 1.0 metre (3.3 feet) per second. The National Building Code of Canada and/or the regulations of the Canada Mortgage and Housing Corporation shall serve as the minimum design and construction requirement for flood proofing.
- (l) Council may, upon consulting the Zoning Administrator, authorize the location of uses at an elevation below the flood elevation if such uses will not be subject to flood damage and which will not cause flood damage to other lands.
- (m) Any use which presents a hazard to life and property either before, during or after a flood event shall be prohibited from the flood risk area unless adequate safeguards can be developed so as to render the hazard impotent.
- (n) Upon receiving an application for a Development Permit within the area

identified as the Flood way fringe, the Zoning Administrator may, prior to rendering a decision thereof:

- i) require the applicant to furnish the following information which may be deemed necessary to determine the suitability of the site for the proposed use:
 - (a) plans drawn to a scale of 1:2000 showing the nature, location, dimensions and elevation of the lot, existing of proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the flood way, and the flood way fringe, where applicable, and the design flood elevation,
 - (b) a typical valley cross-section showing the channel/shoreline of the watercourse/water body, elevation of land areas adjoining the channel/shoreline, cross-sectional areas to be occupied by the proposed development, and high water information,
 - (c) plan (surface view) showing contours of the ground with at least a 1.0 metre (3.3 feet) interval; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; locations and elevations of streets, water supply, sanitary facilities, photographs showing existing land uses and vegetation upstream and downstream, soil types, and other pertinent information.
 - (d) profile showing the slope of the bottom of the watercourse,
 - (e) specifications for building construction and materials, flood proofing, filling, grading, storage of materials, water supply and sanitary facilities, and
 - (f) a contingency plan outlining emergency action to be undertaken in the event of a flood and/or of failure of the flood proofing techniques adopted;
- ii) require one copy of the information described in subsection (i), above, to be transmitted to a designated professional engineer or other expert or agency having jurisdiction for technical assistance, where necessary, in evaluating the proposed project in relation to flood-stage elevations and water velocities; the seriousness of flood damage to the use, the adequacy of the plans for flood-damage mitigation and other technical matters;
- (iii) Based upon the evaluation carried out by the Zoning Administrator under subsection (i) and the advice received under subsection (ii), he/she shall determine the specific flood risk at the site and shall evaluate the suitability of the proposed use in relation to the flood risk; and
- iv) in reviewing the application for a Development Permit the Zoning Administrator shall consider:
 - (a) the danger to life and property owing to increased flood stage

- elevations or velocities caused by encroachments;
- (b) the danger that materials may be swept on to other lands or downstream to the injury of others;
- (c) the proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions during a flood;
- (d) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (e) the importance of the services provided by the proposed facility to the community;
- (f) the requirements of the facility for a waterfront location;
- (g) the availability of alternative locations not subject to flooding for the proposed use;
- (h) the compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (i) the relationship of the proposed use to the Land Use Plan and flood plan management program for the area, if in existence;
- (j) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (k) the expected flood-stage elevations, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site;
- (l) such other factors which are relevant to the purposes of this Bylaw; and
- (m) all relevant factors specified in other sections of this Bylaw.
- (o) Upon consideration of the factors listed above in subsection (n) and the purposes of this Bylaw, the Zoning Administrator may attach such conditions to the granting of Development Permits for uses in the flood risk areas as he/she deems necessary to further the purposes of this Bylaw. Such conditions may include:
 - (a) modifications of waste disposal and water supply facilities;
 - (b) limitations on periods of use and operation;
 - (c) imposition of lease restrictions;
 - (d) establishment of easements; and
 - (e) submission of a plan or document certified by a professional engineer/architect that the flood proofing measures are consistent with the flood elevation and associated flood factors for the particular area. The flood proofing measures as outlined in the National Building Code of Canada and/or the Regulations of the Canada Mortgage and Housing Corporation shall apply.

Special Requirements

Minor Variance

22. (1) An interest holder in any land, building or structure affected by this Bylaw may apply to the Zoning Administrator for a minor variance from the provisions of this Bylaw, in respect of the land, building or structure, or use thereof.

- (2) An application for a minor variance shall be made in the form of Appendix B and include any applicable fee.

Non-Conforming Uses

23. (1) This Bylaw does not prevent the continued use of any land, building or structure for any purpose prohibited by this Bylaw, if such land, building or structure was lawfully used for such a purpose prior to the date of approval of this Bylaw, so long as they continue to be used for that purpose.
- (2) Where any land, building or structure, on the day this Bylaw was made, was used for a purpose prohibited by the Bylaw, the owner of any land, building or structure may apply to the Zoning Administrator for authorization to:
 - i) enlarge or extend the building or structure, if the land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day this Bylaw was made; or
 - ii) use such land, building or structure for a purpose that is similar to the purpose for which it was used on the day this Bylaw was made, or is more compatible with the uses permitted by the Bylaw than the purpose for which it was used on the day this Bylaw was made.
- (3) Where a non-conforming use building or structure is destroyed, the owner of said building or structure may apply to the Zoning Administrator for authorization to:
 - i) restore the building or structure to its original dimensions; and
 - ii) strengthen the building or structure to a safe condition, provided that such restoration or strengthening does not further increase the extent of non-conformity of the use, building or structure, and that the use is not a noxious use.
- (4) Any application under subsections (2) or (3) shall be made in the form of Appendix B and include the applicable fee.

Bylaw Amendment

24. (1) An interest holder in any land, building or structure may apply to the Zoning Administrator for an amendment to change or vary any site regulation or use provision of this Bylaw.
- (2) An application for a Zoning Bylaw Amendment shall be made in the form of Appendix B.
- (3) An interest holder who applies under subsection (1) must include in the application:
 - i) a brief written statement from the applicant in support of the application, including the reasons for the application and proposed amendment;

- ii) a detailed site plans, where applicable;
- iii) the applicant's name, signature, address and interest in the property; and
- iv) all applicable fees paid in full for the proposed amendment including but not limited to community consultation, all mapping, printing, reproduction, planning, engineering, legal, surveys and advertising costs.

Hearing

25. Within thirty (30) days of the filing of a properly completed appeal application under section 5 or an application under sections 21, 22 or 23, the Council shall hold a public hearing with respect to the application. At the hearing, the Council shall:
- i) provide the applicant with an opportunity to present evidence and to make oral or written submissions in support of the application; and
 - ii) provide any First Nation member present at the hearing with an opportunity to be heard.

Notice

26. At least fourteen (14) days prior to the date of any hearing, the Zoning Administrator shall issue a Notice of Hearing in the form shown in Appendix D. Said Notice shall contain the date, time and place of the hearing, and shall inform the applicant that they and any other First Nation members have the right to appear at the hearing and be heard in respect of the application. Said notice shall be provided to the applicant and posted in the Band Office.

Rules of Procedure

27. The Council may make rules of procedure governing any hearing of applications and shall keep records of its proceedings.
- 27.1 At the hearing, the Council shall provide the following persons with an opportunity to present evidence and make oral and written submissions regarding the extent of the damage to the building or structure in question:
- i) the applicant/appellant;
 - ii) the Zoning Administrator;
 - iii) any other person who was given notice in writing of the hearing and who wishes to be heard; and
 - iv) any other person who, in the opinion of Council, is potentially affected or has information which could contribute to a fair determination.

Decision

28. (1) In deciding any application or appeal, Council shall take into consideration:
- i) the provisions of this Bylaw, including their general intent and purpose;

- ii) the Land Use Plan and its general intent and purpose;
- iii) the environmental limitations of the land in question, including whether the amendment respects the environmental integrity of the Reserve and the land's ability to sustain the development without compromising future generations' ability to use that land;
- iv) any conditions that should be applied should the application be approved; and
- iv) any other factor(s) which Council feel is/are relevant.

Criteria - Minor Variance

- (2) In addition to the criteria listed in (1), in determining whether an application for a minor variance should be granted, the Council shall take into consideration whether the minor variance is desirable for the appropriate development or use of the land, building or structure.

Criteria - Non-Conforming Use

- (3) In addition to the criteria listed in (1), in determining whether an application for an extension or modification of a non-conforming use should be granted the Council shall take into consideration whether the extension or modification is desirable for the appropriate development or use of the land, building or structure.

Criteria - Amendment

- (4) In addition to the criteria listed in (1), in determining whether an application for an amendment to this Bylaw should be granted, the Council shall take into consideration:
 - i) whether the amendment is desirable for the appropriate development or use of the land, building or structure;
 - ii) compliance with this Law, the Land Use Plan, other KFN Laws, and with relevant federal, provincial and municipal laws and standards;
 - iii) provision of community benefits including land and/or funds to KFN for the development of community amenities;
 - iv) protection and enhancement of cultural and heritage sites;
 - v) compatibility with KFN culture;
 - vi) viewscales, aesthetics and visual qualities;
 - vii) ensuring adequate parking, access and emergency access;
 - viii) the character of the proposed activity or project in relation to the character of the zone, neighbourhood, and buildings already erected;
 - ix) the conservation of property values;
 - x) potential impacts on adjacent uses, owners and occupants;
 - xi) the development of the zone, neighbourhood and Reserve in a manner that contributes to the economic, environmental, cultural and community health of KFN and its Members and the occupants of KFN Land; and
 - xii) any other factors which may have an impact on the community or KFN Lands.

Notice of Decision

29. Within sixty (60) days of any hearing, the Council shall render its decision on the application and shall give a written notice of its decision to the applicant which incorporates written reasons in support of its decision.

29.1 In its decision, the Council may:

- i) reject the application; or
- ii) approve the application with any reasonable terms or conditions.

Posting Decision

30. Within five (5) days after rendering its decision on the application, the Council shall post a notice of its decision including the written reasons in support of its decision in the Band Office.

PART III - SPECIFIC ZONING PROVISIONS

ZONES

31. The Reserve is divided into the following zones as shown on the Land Use Plan.

Zones	Zone Symbols
Housing	H
Cottage	CT
Highway Commercial	CH
Community Commercial	CC
Industrial	I
Community Use	CU
Environmental Recreation	ER
Transportation	T
Community Forest	F
Agricultural	AG
Archeological/Heritage	AH

Housing (H) Zone

31.1 Land may be used and buildings and structures erected, altered or used in a Housing (H) Zone only for:

Permitted Uses

- (a) single family dwelling;
- (b) home business;
- (c) parks and playgrounds; and
- (d) uses accessory to any of the foregoing permitted uses.

Discretionary Uses

- (a) dwelling – duplex;
- (b) dwelling - triplex;
- (c) dwelling - cluster;
- (d) dwelling - multiple
- (e) group home;
- (f) mobile home dwelling;
- (g) home business;
- (h) cottage industry;
- (i) non-commercial farm;
- (j) uses permitted in the Environmental Recreation (ER) Zone; and
- (k) uses permitted in the Community Use (CU) Zone.

Fire Safety Separation Distances

The minimum yard requirements for single family dwellings shall conform to the following fire safety separation distances between buildings and structures:

- i) no openings - non-combustible siding 7 metres
- ii) no openings - combustible siding 9 metres
- iii) one opening - one wall; no openings - in wall of adjacent building - non-combustible siding 8 metres
- iv) one opening - one wall; no openings - in wall of adjacent building - combustible siding 10 metres
- v) openings - both walls - non-combustible siding 9 metres
- vi) openings - both walls - combustible siding 12 metres

Housing (H) Zone Specifications

Land may be used and buildings and structures may be erected, altered or used in a Housing (H) Zone only where the following specifications are complied with:

NEW VILLAGE

minimum lot area	1,500 square metres
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minimum lot frontage	30 metres
minimum dwelling unit area	100 square metres
minimum front yard depth	6 metres
minimum side yard width	6 metres
minimum rear yard depth	7.5 metres
maximum lot coverage	35 percent
maximum building height	6 metres
minimum number of parking spaces	1 per dwelling unit
minimum building fire separation	12 metres or as National Fire Code Standards Apply

OLD VILLAGE

minimum lot area	existing
minimum lot frontage	existing
minimum dwelling unit area	existing
minimum front yard depth	existing
minimum side yard width	existing
minimum rear yard depth	existing
maximum lot coverage	existing
maximum building height	existing
minimum number of parking spaces	existing
minimum building fire separation	existing

Cottages (CT) Zone

31.2 Land may be used and buildings and structures erected, altered or used in a Cottage (CT) Zone only for:

Permitted Uses

- (a) single family dwelling; and
- (b) uses accessory to the foregoing permitted use.

Discretionary Uses

- (a) uses permitted in the Environmental Recreation (ER) Zone;
- (b) uses permitted in the Community Use (CU) Zone.

Cottages (CT) Zone Specifications

Land may be used and buildings and structures may be erected, altered or used in a Cottage (CT) Zone only where the following specifications are complied with:

minimum lot area	1000 square metres
minimum lot frontage	30 metres
minimum dwelling unit area	50 square metres
minimum front yard depth	6 metres
minimum side yard width	6 metres
minimum rear yard width	7.5 metres
maximum lot coverage	35 percent
maximum building height	6 metres
maximum lot area	2000 square metres
minimum number of parking spaces	1 per dwelling unit
minimum building fire separation	12 metres or as National Fire Code Standards Apply

Commercial Zones

Highway Commercial (CH) Zone

31.3 Land may be used and buildings and structures erected, altered or used in a Highway Commercial (CH) Zone only for:

Permitted Uses

- (a) motor and recreational vehicle sales, service, repair and rental uses;
- (b) convenience stores;
- (c) restaurants and other eating establishments;
- (d) hotels and motels;
- (e) building and lumber supply facilities;
- (f) forest fire training centres;
- (g) tourist related facilities;
- (h) retail stores;
- (i) public utilities;
- (j) sports, recreation and entertainment facilities; and
- (k) accessory uses.

Discretionary Uses

- (a) similar uses;
- (b) Community Use (CU) Zone uses; and
- (c) Community Commercial (CC) Zone uses.

Highway Commercial (CH) Zone Specifications

Land may be used and buildings and structures may be erected, altered or used in a Highway Commercial (CH) Zone only where the following specifications are complied with:

minimum lot area	5000 square metres
minimum lot frontage	50 metres
minimum building area	--
minimum front yard depth	6 metres
minimum side yard width	6 metres
minimum rear yard depth	7.5 metres
maximum lot coverage	35 percent
maximum building height	14 metres
minimum number of parking spaces	2 per 100 square metres of gross floor area
minimum building fire separation	12 metres or as National Fire Code Standards Apply

Performance Standards

- (a) The access from the premises to the highway or major streets shall be allowed only at the points as established by the Zoning Administrator. The building setbacks shall allow for the planned widening of streets and/or provisions of service roads where required by the Zoning Administrator. The building setbacks shall provide for the front yards as established by these provisions in addition to the setbacks needed for the aforementioned widening.
- (b) Where development fronts on a designated highway pursuant to the *Public Highways Act* a service roadway of not less than 15 m (50 ft.) in width shall be required adjacent and parallel to the highway.
- (c) All buildings shall be of good architectural design as required by the Zoning Administrator, so as not to interfere with or detract from the standards of the zone and the amenities of the Reserve.
- (d) All yards abutting the highway or roadway shall be landscaped and the entire lot and all buildings maintained in a neat, tidy manner including the trimming and upkeep of areas and the removal of debris and unsightly objects.
- (e) All storage, freightage or trucking yards shall be enclosed or completely screened by buildings, trees, landscaped features, or fences or a combination thereof.
- (f) All outdoor storage areas shall be enclosed with a suitable fence and the outdoor storage and display of equipment, machinery, building materials, lumber or other materials shall be kept in a clean and orderly condition at all times.

Community Commercial (CC) Zone

31.4 Land may be used and buildings and structures erected, altered or used in a Community

Commercial (CC) Zone only for:

Permitted Uses

- (a) motor and recreational vehicle sales, service, repair and rental uses;
- (b) bank and other financial institutions;
- (c) personal service shops;
- (d) business and professional offices;
- (e) convenience stores;
- (f) laundry and dry cleaning establishments;
- (g) restaurants and other eating establishments;
- (h) hotels and motels;
- (i) places of entertainment;
- (j) post office;
- (k) public utilities;
- (l) taxi stands;
- (m) retail stores;
- (n) Band and government offices;
- (o) public and private educational services;
- (p) religious assembly; and
- (q) accessory uses.

Discretionary Uses

- (a) similar uses; and
- (b) Community Use (CU) Zone uses.

Community Commercial (CC) Zone Specifications

Land may be used and buildings and structures may be erected, altered or used in a Community Commercial (CC) Zone only where the following specifications are complied with:

minimum lot area	3,000 square metres
minimum lot frontage	30 metres
minimum building area	--
minimum front yard depth	6 metres
minimum side yard width	6 metres
minimum rear yard depth	7.5 metres
maximum lot coverage	60 percent
maximum building height	14 metres
minimum number of parking spaces	2 per 100 square metres of gross floor area

minimum building fire separation	12 metres or as National Fire Code Standards Apply
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Performance Standards

- a) No parking, loading, storage, trash collection, outdoor service or display area shall be permitted in the required front yard. Loading, storage and trash collection areas shall be located to the rear or sides of the principal building and shall be screened from view from any adjacent lots or public roadways. If the rear or sides of a lot are used for parking, an outdoor service or display area or both, and abut a residential district, they shall be screened to the satisfaction of the Zoning Administrator.

Industrial (I) Zone

31.5 Land may be used and buildings and structures erected, altered or used in an Industrial (I) Zone only for:

Permitted Uses

- (a) warehouse, storage and supply facilities;
- (b) sawmills and wood yards;
- (c) storage yards for fuel, lumber, building materials and equipment;
- (d) workshop and repair facilities;
- (e) recycling depots;
- (f) concrete batching plants;
- (g) repair and service shops;
- (h) animal clinics;
- (i) ground, water and air transportation;
- (j) storage and shipping facilities;
- (k) caretaker dwelling;
- (l) forest fire attack base;
- (m) farm produce outlet; and
- (n) accessory uses.

Discretionary Uses

- (a) industrial manufacturing and processing establishments; except one involving the danger of fire or explosion or likely to create a nuisance by reason of fumes, dust, odour, or excessive noise;
- (b) junkyard, automobile wrecking and metal recycling yard; and
- (c) similar uses.

Industrial (I) Zone Specifications

Land may be used and buildings and structures erected, altered or used in an Industrial (I) Zone only where the following specifications are complied with:

minimum lot area	5000 square metres
minimum lot frontage	50 metres
minimum building area	--
minimum front yard depth	6 metres
minimum side yard width	6 metres
minimum rear yard depth	7.5 metres
maximum lot coverage	50 percent
maximum building height	15 metres
minimum number of parking spaces	1 space per 100 square metres of gross building area
minimum building fire separation	12 metres or as National Fire Code Standards Apply

Performance Standards

- (a) All proposed industrial activities are subject to an environmental evaluation under KFN Law, the MVRMA, or any other applicable environmental legislation, including that which may be introduced under the KFN land code or law duly approved pursuant to the FNLMA and Framework Agreement.

For greater certainty, in the event of any conflict between any provision of the MVRMA and that of any duly approved KFN land code or law under the FNLMA, the KFN land code or law shall prevail to the extent of the conflict.

- (b) Where the likelihood of air or water pollution is concerned, it shall be required that the proposed development be referred by Council to a Government Agency for study and recommendation, and due regard shall be given to such recommendation in dealing with the application.
- (c) Any industrial operation including production, processing, cleaning, testing, repair, storage or distribution of any material shall conform to the following standards:
- i) **smoke, dust, ash, odour, toxic gases, etc.** shall only be released into the atmosphere in such amounts as established by the MVMRA, or any other applicable environmental legislation, and under such conditions and safeguards as shall have been approved, in writing, by Council after consultation with the appropriate Government Agency;
 - ii) **glare or heat** - no industrial operation shall be carried out which would produce glare or heat so as to be offensive beyond the property line of the lot concerned;
 - iii) **industrial wastes** - no industrial wastes shall be discharged which do not

- conform to standards established by Council and the MVRMA, or any other applicable environmental legislation;
- iv) **odour** - the emission of any odorous gas or other odorous matter is prohibited;
 - v) **toxic gases, etc.** - the emission of any toxic gases or other toxic substances is prohibited; and
 - vi) **external storage** - storage of goods or material is permitted if kept in accordance with appropriate territorial and federal government legislation, and in a neat and orderly manner or, suitably enclosed by a fence or retaining wall to the satisfaction of the Zoning Administrator or Council.
- (d) The onus of proving to the Zoning Administrator's satisfaction that a proposed development does and will comply with these requirements rests with the proponent.
- (e) In considering the Development Permit application, the Zoning Administrator shall have regard to the intent of his section, which is to establish use on the basis of:
- i) environmental protection;
 - ii) appropriate performance standards;
 - iii) the methods, equipment and techniques of the applicant; and
 - iv) the use of neighboring lands and zones and the compatibility of the proposed use with neighboring land and zones.
- (f) The granting of permission to develop in this zone is subject to compliance and continued compliance with the performance standards set out herein. The failure to comply with these performance standards shall be considered a contravention of this Bylaw. The Zoning Administrator **shall** prohibit the continued use of the premises until the performance standards are complied with.

Community Use (CU) Zone

31.6 Land may be used and buildings and structures erected, altered or used in a Community Use (CU) Zone only for;

Permitted Uses

- (a) historic and cultural sites;
- (b) religious assembly facilities;
- (c) community recreational facilities;
- (d) nursing and senior care facilities;
- (e) child and special care facilities;
- (f) technology centres;
- (g) hospital and nursing station;
- (h) educational facilities;
- (i) animal shelter and veterinary service
- (j) public utilities;

- (k) Band and government offices; and
- (l) accessory uses.

Discretionary Uses

- (a) cemeteries
- (b) Environmental Recreation (ER) Zone uses; and
- (c) similar uses

Community Use (CU) Zone Specifications

Land may be used and buildings and structures may be erected, altered or used in a Community Use (CU) Zone only where the following specifications are complied with:

minimum lot area	1000 square metres
minimum lot frontage	30 metres
minimum building area	50 square metres
minimum front yard depth	6 metres
minimum side yard width	6 metres
minimum rear yard depth	7.5 metres
maximum lot coverage	50 percent
maximum building height	8 metres
minimum number of parking spaces	2 per 100 square metres of gross building area
minimum building fire separation	12 metres or as National Fire Code Standards Apply

Environmental Recreation (ER) Zone

31.7 Land may be used and buildings and structures erected, altered or used in an Environmental Recreation (ER) Zone only for:

Permitted Uses

- (a) parks, playgrounds and picnic areas;
- (b) outdoor educational facilities;
- (c) sports fields;
- (d) community gathering areas;
- (e) community docks and marinas; and
- (f) accessory uses.

Discretionary Uses

- (a) seasonal tourist campgrounds and other tourist facilities; and

- (b) similar uses.

Environmental Recreation (ER) Zone Specifications

Land may be used and buildings and structures may be erected, altered or used in an Environmental Recreation (ER) Zone only where the following specifications are complied with:

minimum lot area	not applicable
minimum lot frontage	30 metres
minimum building area	not applicable
minimum front yard depth	6 metres
minimum side yard width	6 metres
minimum rear yard depth	7.5 metres
maximum lot coverage	20 percent
maximum building height	8 metres
minimum number of parking spaces	2 per 50 square metres of gross building area
minimum building fire separation	12 metres or as National Fire Code Standards Apply

Transportation (T) Zone

31.8 Land may be used and buildings and structures erected, altered or used in a Transportation (T) Zone only for:

Permitted Uses

- (a) heliport;
- (b) aircraft repair;
- (c) helicopter hangers;
- (d) receiving and distribution facilities;
- (e) public docks;
- (f) public trails;
- (g) public roads;
- (h) ice bridges; and
- (i) permanent or seasonal transportation links such as bridges;
- (j) buildings and uses accessory to the above.

Discretionary Uses

- (a) public utility;
- (b) workshops;
- (c) residential facilities for transient workers ancillary to permitted or discretionary uses;

- (d) trucking terminals;
- (e) warehouse and storage facilities;
- (f) caretaker unit; and
- (g) buildings and uses accessory to the above.

Transportation (T) Zone Specifications

Land may be used and buildings and structures may be erected, altered or used in a Transportation (T) Zone only where the following specifications are complied with:

minimum lot area	Discretion of the Zoning Administrator and Council
minimum lot frontage	Discretion of the Zoning Administrator and Council
minimum building area	Discretion of the Zoning Administrator and Council
minimum front yard depth	Discretion of the Zoning Administrator and Council
minimum side yard width	Discretion of the Zoning Administrator and Council
minimum rear yard depth	Discretion of the Zoning Administrator and Council
maximum lot coverage	Discretion of the Zoning Administrator and Council
maximum building height	8 metres or as air transport regulations apply
minimum number of parking spaces	Discretion of the Zoning Administrator and Council
minimum building fire separation	12 metres or as National Fire Code Standards Apply

Community Forest (F) Zone

31.9 Land may be used and buildings and structures erected, altered or used in a Community Forest (F) Zone only for:

Permitted Uses

- (a) traditional Dene activities

Discretionary Uses

- (a) all uses at the discretion of the Zoning Administrator and Council

Community Forest (F) Zone Specifications

Land may be used and buildings and structures may be erected, altered or used in a Community Forest (F) Zone only where the following specifications are complied with:

minimum lot area	Discretion of the Zoning Administrator and Council
minimum lot frontage	Discretion of the Zoning Administrator and Council
minimum building area	Discretion of the Zoning Administrator and Council
minimum front yard depth	Discretion of the Zoning Administrator and Council
minimum side yard width	Discretion of the Zoning Administrator and Council
minimum rear yard depth	Discretion of the Zoning Administrator and Council
maximum lot coverage	Discretion of the Zoning Administrator and Council
maximum building height	8 metres or as air transport regulations apply
minimum number of parking spaces	Discretion of the Zoning Administrator and Council
minimum building fire separation	12 metres or as National Fire Code Standards Apply

Agricultural General (AG) Zone

31.11 General Purpose:

To provide a zone for general agricultural uses or other uses that are related to or compatible with agriculture.

Permitted Uses

- (a) single family dwelling
- (b) cottage industry
- (c) animal shelter and veterinary service
- (d) agricultural activities
- (e) farm produce outlet
- (f) non-commercial farm
- (g) traditional Dene activities

Discretionary Uses

- (a) general contractor service
- (b) forestry
- (c) gravel pit, stone quarry

Agricultural General (AG) Specifications

minimum lot area	Discretion of the Zoning Administrator and Council
minimum lot frontage	Discretion of the Zoning Administrator and Council
minimum building area	Discretion of the Zoning Administrator and Council
minimum front yard depth	Discretion of the Zoning Administrator and Council
minimum side yard width	Discretion of the Zoning Administrator and Council
minimum rear yard depth	Discretion of the Zoning Administrator and Council
maximum lot coverage	Discretion of the Zoning Administrator and Council
maximum building height	Discretion of the Zoning Administrator and Council
minimum number of parking spaces	Discretion of the Zoning Administrator and Council
minimum building fire separation	12 metres or as National Fire Code Standards Apply

Archeological/Heritage (AH) Zone

31.12 General Purpose: Land may be used and buildings and structures erected, altered or used in a Community Forest (A/H) Zone only for:

Permitted Uses

- (a) traditional Dene activities

Discretionary Uses

- (a) all uses at the discretion of the Zoning Administrator and Council

Archeological/Heritage (AH) Specifications

minimum lot area	Discretion of the Zoning Administrator and Council
minimum lot frontage	Discretion of the Zoning Administrator and Council
minimum building area	Discretion of the Zoning Administrator and Council
minimum front yard depth	Discretion of the Zoning Administrator and Council

minimum side yard width	Discretion of the Zoning Administrator and Council
minimum rear yard depth	Discretion of the Zoning Administrator and Council
maximum lot coverage	Discretion of the Zoning Administrator and Council
Minimum building fire separation	12 metres or as National Fire Code Standards apply

PART IV - ENFORCEMENT

Inspection

32. The Zoning Administrator may, at all reasonable hours, enter and inspect any land, building, structure or other property for the purpose of determining whether this Bylaw is being complied with.

Offence

33. (1) A person who uses land, or who erects or uses any building or structure or any part of land or a building or structure, in a manner contrary to any provisions of this Bylaw or a Development Permit or an order made by a Court pursuant to this Law or who causes or who permits such use or erection, or who otherwise violates any provision of this Bylaw or causes or permits any such violation, is guilty of an offence.
- (2) A person who interferes with or obstructs the Zoning Administrator in the administration and enforcement of this Bylaw is guilty of an offence.
- (3) Where an offence continues for more than one day, it is a separate offence committed on each day during which it continues, and may be punished as such.

Procedure

34. Where the Zoning Administrator determines that an offence has been committed, the offence shall be reported to Council for Council's approval to proceed with enforcement.
- 34.1. A notice of an offence shall be served personally or sent by registered mail to the interest holder or contractor of the property affected. It shall be issued in the form of Appendix E and shall state the nature of the offence and remedial action required.

Penalty

35. (a) A person who commits an offence under section 32 is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment not exceeding thirty days, or both.
- (b) A fine payable under paragraph 9.1 shall be remitted to the KFN by the Court, after reasonable Court costs have been deducted.

Enforcement and Stop Work Orders

36. In addition to any other applicable fine, penalty or remedy, Council, the Zoning Administrator, or a designated official may:
- (a) issue a Stop Work Order to order any person who has not received full and proper authorization under this Law to cease and carry out any activity, use or

- construction;
- (b) order any structures, works or installations carried out in violation of this Law removed within 30 days, failing which Council may order them to be removed at the expense of the interest holder or the person who constructed or installed the structures, works or installations without proper authorization.

36.1. A Stop Work Order imposed under section 36:

- (a) may be registered in Court and enforced as a court order; and
- (b) continues in force until the condition that led to it is remedied or until the activity or use that is the subject of the Stop Work Order receives a permit or authorization under this Law.

Delegation

37. The Zoning Administrator may, in writing, authorize another staff member of the First Nation to perform any of the Zoning Administrator's duties or exercise any part of the Zoning Administrator's powers under this Part.

37.1 A power or duty delegated under section 37 is subject to any limitations, terms and conditions specified in the delegation, and may not be sub-delegated to another person unless the delegation expressly provides otherwise.

Appendix A
No: _____

Application

**Kátl'odeeche First Nation Zoning Bylaw
Zoning Bylaw No. 2009-01**

APPLICATION FOR A DEVELOPMENT PERMIT

I/we hereby make application under the provisions of the Zoning Bylaw for a Development Permit in accordance with the attached plans and supporting information required to fully explain this application and which form part of this application.

PLEASE PRINT

Applicant/Interest Holder: _____ Phone Res. _____ Bus. _____

Mailing Address: _____ Telephone: _____

Location of Property: _____

Existing Use of Property : _____

Proposed Use of Property: _____

Estimated Commencement and Completion Dates: _____

Date of Application: _____ Signature of Applicant: _____

Application No.: _____ has been approved with the following conditions:

Application No.: _____ has been refused for the following reasons:

Date of Decision: _____ Signature of Zoning Administrator: _____

Date of Approval: _____

A Development Permit is valid for a period of 12 months from the date of approval. If, at the expiry of this period, the development has not been commenced or carried out with reasonable diligence, the permit shall be null and void.

Appendix B

Application No.: _____

**Kátl'odeeche First Nation Zoning Bylaw
Zoning Bylaw No. 2009-01**

**APPLICATION FOR MINOR VARIANCE,
NON-CONFORMING USE OR BYLAW AMENDMENT**

I/we hereby make application under the provisions of the Zoning Bylaw for a

_____ (minor variance OR non-conforming use OR Bylaw amendment)

in accordance with the attached plans and other supporting information required to fully explain the application.

Applicant/Interest Holder: _____

Mailing Address: _____ Telephone: _____

Owner of Property: _____

Mailing Address: _____ Telephone: _____

Location or Property: _____

Legal Description of Property:

Existing Use of Property: _____

Proposed Use of Property: _____

Minor Variance/Non-Conforming Use/ Bylaw Amendment Proposed:
(Reason to support the Application. Add additional pages as required)

Change a Permitted Use: From: _____ To: _____

Change a Zoning Specification: From: _____ To: _____

Other: _____

Date of Application: _____ Signature of Applicant: _____

=====
Application No.: _____ has been approved by Zoning Administrator Instrument Yes/No and,
if yes, subject to the following conditions: _____

Date of Approval: _____ Signature of Zoning Administrator: _____

Appendix C

**Kátl'odeeche First Nation Zoning Bylaw
Zoning Bylaw No. 2019-01**

APPLICATION FOR APPEAL HEARING

I hereby make application under the provisions of the Zoning Bylaw for an Appeal Hearing.

Applicant: _____ Phone Res: _____ Bus. _____

Address: _____

Complete 1 or 2 (not both)

1. I wish to appeal the following application for a Permit:

Reason: _____

2. I wish to appeal the decision of the Zoning Administrator on my application for a Permit for the following reasons:

Date of Application: _____ Application Fee: \$ _____

Signature of Applicant or Agent: _____

Appendix D

**Kátl'odeeche First Nation Zoning Bylaw
Zoning Bylaw No. 2019-01**

NOTICE OF HEARING AND DECISION/DEVELOPMENT PERMIT

A Hearing will be held _____ (Date, Time and Place)
to review Application No. _____ the attached application.

All interested First Nation members are invited to attend the hearing to be heard on this application.

Location of Land, Building or Structure:

(Insert Location Map)

Proposed Use of Property: _____

Date of Notice: _____ Signature of Zoning Administrator: _____

After review, Council has determined that:

1. The Permit application has been APPROVED subject to the following conditions:

REFUSED for the following reasons: _____

2. The Amendment to the Zoning Bylaw has been APPROVED subject to the following conditions: _____

REFUSED for the following reasons: _____

Date of Decision: _____

Chief

Councillor

Councillor

Councillor

Councillor



Councillor

Councillor

Appendix E

**KÁTŁ'ODEECHE First Nation Zoning Bylaw
Zoning Bylaw No. 2009-01**

NOTICE OF BYLAW CONTRAVENTION

Interest Holder: _____

Location of Land, Building or Structure: _____

You are hereby notified that your development is in contravention of Section(s) _____ of
Zoning Bylaw No. _____ and/or Development Permit No. _____ by reason of:

No further work or development shall take place until you have taken remedial action to conform
to the Bylaw /Permit as follows: _____

Failure to comply with this request within _____ days of receipt of this notice may result in
action being taken under the provisions of the *Indian Act* or

Date: _____ Signature of Zoning Administrator: _____

