

TSARTLIP INDIAN BAND

BY-LAW NO [#]1, 1996

A By-law to designate all of the reserve lands of the Tsartlip Indian Band as Special Development Zones and to prohibit the use or development of land to carry on any business, trade or other commercial activity which will cause a substantial change to or materially impact land in a Special Development Zone, except in conformity with the requirements of this By-law, including the requirement that the Band Council has approved such use or development of land as an appropriate use of land in that Special Development Zone.

W H E R E A S:

A. It is in the interest of the Band that the use of Tsartlip Indian Band reserve lands be regulated in order to protect them from environmental or other degradation and to ensure that any development of these lands is not detrimental to the interests of the Band membership at large or any other lawful holder of an interest in such reserve lands; and

B. The Tsartlip Indian Band Council has the power under section 81, sub-section (g) of the Indian Act, S.C. 1985, to enact by-laws for the aforesaid purpose:

NOW THEREFORE the Band Council of the Tsartlip Indian Band enacts as a by-law the following:

PART I - SHORT TITLE

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

PART II - INTERPRETATION

2. This by-law as a matter of convenience and for references only is divided into nine parts titled as follows:

PART I	- SHORT TITLE
PART II	- INTERPRETATION
PART III	- SPECIAL DEVELOPMENT ZONE
PART IV	- APPLICATION
PART V	- NON-CONFORMING USES
PART VI	- INSPECTION
PART VII	- OFFENCE
PART VIII	- AMENDMENT
PART IX	- SEVERABILITY

3. The headings used in this By-law have been inserted as a matter of convenience and for reference only and in no way define or limit any of its provisions.
4. The following terms whenever used in this By-law, or in any resolution of Council passed relating to this By-law, shall have the meaning respectively ascribed to them in this section unless the context otherwise requires.

"Application" means the documents, plans, statements and other information required to be provided pursuant to Section 8;

"Band Council" means the Council of the Tsartlip Indian Band within the meaning of the Indian Act, S.C. 1985;

"Person" means any natural person, corporation, and, except where stated otherwise, any person who is a member of the Tsartlip Indian Band;

"Reserve" means any reserve set aside for the use and benefit of the Tsartlip Indian Band, including but not limited to Tsartlip Indian Reserve No. 1, Tsartlip Indian Reserve No. 13, Mayne Island Reserve No. ____, Seananus Island Reserve No. ____, and, without limiting the generality of the foregoing, including therein any conditionally surrendered lands, designated lands, and lands subject to any form of leasehold interest, certificate of possession or permit;

"Special Development Zone" means any Reserve or part thereof so designated in this By-law;

"Tsartlip Indian Band" or "Band" means the Tsartlip Indian Band.

"Zoning Advisory Committee" means the committee established from time to time by a resolution of the Band Council in order to provide advice to the Band Council under this By-law;

PART III - SPECIAL DEVELOPMENT ZONE

5. Each Reserve is hereby designated as a Special Development Zone.
6. The Band Council may, after consideration of the views of the Band, determine the particular uses to which a Special Development Zone may be put.
7. No person shall use or develop land within a Special Development Zone to carry on a business, trade or other commercial activity which will cause a substantial change to or materially impact any land within a Special Development Zone,
 - (a) except in conformity with the requirements of this By-law; and
 - (b) unless the Band Council has approved such use or development of land, with or without terms and conditions, as an appropriate use of land in that Special Development Zone.

PART IV - APPLICATION

8. A person may apply to the Band Council for approval of a proposed use or development of land for the operation of a business, trade or other commercial activity, by making an application in writing that contains the following information:
 - (a) a statement of the proposed use or development;
 - (b) a statement of the the legal basis for the applicant's right to use that land;
 - (c) a statement of how the proposed development shall provide services or other benefits to the Band;
 - (d) a site plan or plans including legal description of the area to be affected, showing the location of all existing and proposed buildings and streets, lanes, highways, driveways, parking, and loading areas, sidewalks, street lighting, utilities and utility easements, rights-of-way, streams and other topographic features of the site.
 - (e) a plan for the provision of services to the proposed development, including but not limited to sewer, water and power;
 - (f) a plan for access to the proposed development;
 - (g) existing and proposed grades and their relations to the elevations on adjoining properties;
 - (h) the location, size, height, colour, lighting and orientation of all signs;
 - (i) the location and treatment of open spaces, landscaping and fences;
 - (j) an estimated commencement date and proposed schedule of construction if appropriate;
 - (k) a statement of anticipated environmental impacts from the construction, installation, operation and presence of the proposed development;
 - (l) a statement of financial responsibility, including the posting of bonds or cash, if appropriate in a particular case; and
 - (m) such other information which, in the opinion of the Band Council, is necessary to enable the Band Council to have due regard to the considerations enumerated in Section 11.
9. The Band Council shall forward to the Zoning Advisory Committee a copy of every completed Application submitted in accordance with Section 10.
10. The Zoning Advisory Committee shall review the Application, having regard to the following considerations:
 - (a) the promotion of health, safety, convenience and welfare of the members of the Tsartlip Indian Band, residents and occupants and other persons who have a lawful interest in lands within the Special Development Zone;

- (b) the protection of the environment, including lands, water, air, fish, and wildlife of importance to the Band;
 - (c) the prevention of the overcrowding of land, taking into account projected population trends of the Band, and the preservation of the amenities peculiar to the Special Development Zone;
 - (d) the securing of adequate light, air and reasonable access;
 - (e) the value of the land in the Special Development Zone and the nature of its present and prospective use and occupancy;
 - (f) the character of the Special Development Zone, the character of the buildings already erected, and the peculiar suitability of the Special Development Zone for particular uses;
 - (g) the Tsartlip Indian Band Community Development Plan of 1984 and any amendments made to it by the Band;
 - (h) the conservation of property values;
 - (i) the development of the Special Development Zone to promote greater efficiency and quality; and
 - (j) the development of the Special Development Zone for the general economic and social welfare and advancement of the Tsartlip Indian Band.
11. Within ninety (90) days of receipt of the Application, the Zoning Advisory Committee shall recommend, with reasons, that the Band Council should approve of the Application, with or without terms and conditions, or should reject the Application.
 12. The Zoning Advisory Committee may, at any time during its review, request from the applicant such further information as it may require in order to make its recommendation to the Band Council.
 13. Upon receipt of the recommendation of the Zoning Advisory Committee, the Band Council shall, having regard to the provisions of Section 10, decide whether the proposed use of lands described in the Application is an appropriate use of land in that Special Development Zone and shall, by a resolution of the Band Council:
 - (a) approve the Application, with or without terms and conditions;
 - (b) request that the Application be amended by the applicant for consideration of such amended Application by the Zoning Advisory Committee; or
 - (c) reject the Application.
 14. For greater certainty, compliance with the requirements of this By-law does not relieve the applicant from meeting such other requirements as may be imposed by law.

PART V - NON-CONFORMING USES

15. Notwithstanding Section 7, where, at the time of the coming into force of this By-law, there is a lawful use of land in a Special Development Zone, such use may be continued as a non-conforming use.
16. In the event that a non-conforming use is discontinued for a period of thirty (30) days, such non-conforming use shall not be resumed except in compliance with the provisions of this By-law.

PART VI - INSPECTION

17. The Band Council or its agent may at any reasonable time enter onto the lands in a Special Development Zone for the purpose of an inspection to assess whether any use or activity on such lands is in compliance with this By-law, or for the purpose of inspecting or maintaining any sewer, water or power lines.

PART VII - OFFENCE

18. Any person who violates any provision of this By-law is guilty of an offence punishable on summary conviction, and is liable to a fine to a maximum of one thousand (\$1,000.00) dollars or to imprisonment not exceeding thirty (30) days, or both.
19. The Band Council may at any time, whether or not an information has been laid pursuant to section 18, make an order that any person comply with the requirements of this By-law, or take such other lawful steps as it may consider necessary, including the obtaining of a restraining order from a court of competent jurisdiction, in order to prevent the continuation or repetition of any use or development of land in a Special Development Zone which it considers is not in compliance with this By-law.

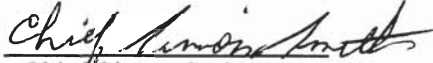
PART VIII- AMENDMENT


20. This By-law may be amended by a decision of the Chief and Council, after considering the views of the Tsartlip Indian Band obtained in the following manner:
 - (a) members of the Band shall be notified of the proposed amendment and provided with the wording of the proposed amendment;
 - (b) the Band Council shall call a meeting of the Band to discuss the proposed amendment on a date that is not earlier than ten (10) days after notification of the proposed amendment; and
 - (c) the Band Council shall call a second meeting of the Band and the members of the Band shall vote on the proposed amendment, having been provided with at least five (5) days notice of the voting date.


PART IX - SEVERABILITY


21. In the event that any section or sections of the By-law 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.


APPROVED AND PASSED this 23 day of Dec, 1996 by the Council of the Tsartlip Indian Band at a duly convened meeting at which a quorum of the Councillors of the Band are present and voting in favour of this By-law.



Chief Simon Smith

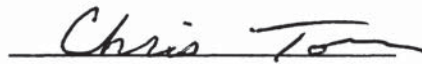

Councillor Joe Bartleman


Councillor Dave Paul



Councillor Curtis Olsen



Councillor John Elliott


Councillor Vern Tom


Councillor Chris Tom

I, Simon Smith, Chief of the Tsartlip Indian Band, do hereby certify that a true copy of the foregoing by-law was forwarded to the Minister of Indian Affairs and Northern Development pursuant to Sub-section 82 (1) of the *Indian Act*, R.S.C. 1985, c. I-5 this 23 day of Dec, 1996.


Witness as to the signature of
Chief Simon Smith:


Chief Simon Smith