

WHITECAP DAKOTA FIRST NATION



Development Permit Policy

Table of Contents

1. Preamble	2
2. Title and Purpose of Development Permit Policy	2
3. Definitions	2
4. Development Proposal and Application Process	3
5. Offences and Penalties	4
6. Liability of the First Nation	5
7. Amendments to the Development Permit Policy	5
8. Notices	5
9. Interpretation	5
10. Force and Effect	6

DEVELOPMENT PERMIT POLICY
of the
WHITECAP DAKOTA FIRST NATION

1.0 PREAMBLE

WHEREAS Whitecap Dakota First Nation exercises control over its lands and exercises self-government in relation to its lands and various governance activities;

AND WHEREAS Whitecap Dakota First Nation has the authority and capacity to enact processes, laws and regulations for the purpose of good governance practices.

NOW THEREFORE Whitecap Dakota First Nation enacts this Land Policy for the purposes of the orderly development of projects on Whitecap Dakota First Nation Lands.

2.0 Title and Purpose Development Permit Policy

2.1 The title of this document is the Development Permit Policy.

2.2 The purpose of the Development Permit Policy is to provide a procedure for the issuance of Development Permits for projects on Whitecap Dakota First Nation Lands.

3.0 Definitions

“**Band Council Resolution**” means a motion passed and approved by a majority of the Council of the Band present at a duly convened meeting;

“**Consulting Engineer**” means the person appointed by the Council to act on behalf of the First Nation, or his designate;

“**Council**” means the duly elected Council of the Whitecap Dakota First Nation;

“**Developer**” means the lessee of the Land on the Reserve proposed to be developed;

“**Development Permit**” means the document containing the specifications of development;

“**Development Proposal**” means a document briefly outlining a proposed development on Whitecap Dakota First Nation Land;

“**Lands**” means Whitecap Dakota First Nation Lands as defined in the Whitecap Dakota First Nation Land Code 2015 as amended;

“**Lands Department**” means the Whitecap Dakota First Nation Lands Department Office;

“**Lessee**” means the person who has the exclusive use and occupation of the lands on Reserve and includes a sub lessee of the lands of the Reserve;

“**First Nation**” means the Whitecap Dakota First Nation;

“Professional Architect” means a person licensed to practice in Canada as a Professional Architect;

“Professional Engineer” means a person licensed to practice in Canada as a Professional Engineer;

“Project” means any Works on any Lands whether it be for commercial, residential, recreational or industrial purposes;

“Reserve” means the Indian Reserve(s) set apart for the use and benefit of the Whitecap Dakota First Nation;

“Whitecap Dakota First Nation Water Utility” means Whitecaps sewer and water services administered and operated by Whitecap Public Works Department;

“Whitecap Dakota First Nation Land” means lands on the Reserve(s) as set out in the Land Code;

“Works” means any buildings, services, roads and any other improvement required to be constructed and erected or installed, both on the Whitecap Dakota Lands and within statutory or other rights-of-way, permit or easement areas or license areas by the Developer.

4.0 Development Proposal and Application Process

- 4.1 If a Developer wishes to develop Whitecap Dakota First Nation Land, that Developer shall submit a Development Proposal to the Lands Department on the form attached as Schedule “A”, the **“Development Proposal”**.
- 4.2 The Development Proposal will be processed by the Lands Department who will prepare and present a report to Council for its consideration. The report will contain:
- (a) a copy of the Development Proposal;
 - (b) confirmation that the proposed development does not contravene the First Nation’s Land Code, Land Use Plan, Architectural Guidelines, or Development Standards; and
 - (c) confirmation that Lands are available for the proposed Project.
 - (d) Letter from a financial institution stating developers’ status of credibility in regards to the proposed development project.
- 4.3 Upon Council’s approval of the Development Proposal which shall be communicated by the Lands Department to the Developer within 14 days of approval by Council, the Developer shall make an application to the Lands Department on the form of application attached as Schedule “B”, the **“Development Permit Application”**.
- 4.4 The Developer shall submit the Development Permit Application referenced in 4.3 signed and sealed by a Professional Engineer, Professional Architect and/or Professional Planner if required.
- 4.5 The Development Permit Application will be reviewed by the Lands Department who will prepare and present a report to Council for its consideration. The report shall contain:
- (a) a copy of the Development Permit Application,

- (b) the recommendation of the First Nation's Lands Department;
 - (c) confirmation that the proposed development does not contravene the First Nation's Land Code, Land Use Plan or Development Standards;
 - (d) the security to be posted by the Developer, if any.
 - (e) Insurance Requirements
- 4.6 Notwithstanding 4.5, the Development Permit Application will not be approved by Council until:
- (a) an environmental assessment of the proposed development has been completed and any concerns are dealt with to the satisfaction of Council;
 - (b) the total costs of the First Nations share of the infrastructure such as public utilities or other works or services have been developed; and
 - (c) all Development Permit fees are paid. (as per Schedule "B")
 - (d) development levy charges are paid.
- 4.7 Council may refuse to approve the Development Permit Application at any stage of the process if:
- (a) the cost to the First Nation of providing public utilities or other works or services would be deemed excessive; or
 - (b) the Council is of the opinion that the proposed Project does not conform to:
 - (i) any applicable provisions of the First Nation's Land Code, Land Use Plan or Development Standards; or
 - (ii) the recommendations of the First Nation's Lands Department; or
 - (iii) any applicable Provincial or Federal Acts or regulations or any First Nation Laws or By-laws.
- 4.8 Upon approval of the Development Permit Application, (Schedule "C", **Notice of Decision**), the Developer will enter into a Lease and Servicing Agreement with the First Nation.
- 4.9 Upon approval of Development, a Developer shall apply for Whitecap Dakota Services with the Whitecap Public Work Office by written application in the form of Schedule "D", **Water Utility Permit Application**.
- 4.10 A copy of all Development Permits, Leases and Servicing Agreements will be retained by the Lands Department.
- 4.11 The Developer will not be granted an Occupancy Permit (Schedule "E", **Occupancy Permit Application**) until the Consulting Engineer is satisfied that all Works required to be carried out by the Developer are completed.

5.0 Offences and Penalties

- 5.1 It is an offence for any Developer to proceed with construction of any Project or proposed Project on Whitecap Dakota First Nation Lands in contravention of any processes established by this Policy.
- 5.2 Any offences under this Policy shall be punishable by summary conviction and shall be prosecuted in the Provincial Court of Saskatchewan.

6.0 Liability of the First Nation

- 6.1 The First Nation, Council, the members of Council, and /or the employees, officers, contractors and agents of the First Nation are not in any way liable for any claims, demands, injuries, damages or losses (including but not limited to any claim for economic loss) to any person, including a Developer, which may arise from any delay, failure or insufficiency in the performance of any administrative or enforcement functions by the First Nation under this policy.

7.0 Amendments to Development Permit Policy

- 7.1 This Policy may be amended from time to time in accordance with the process established in the Land Code.

8.0 Notices

- 8.1 Where in this Policy a notice is required to be given and where the method of giving the notice is not otherwise specified, it must be given:
- (a) By mail to the recipients ordinary mailing address;
 - (b) Where the recipient's address is unknown, by posting a copy of the notice in a conspicuous place on the recipient's property; or
 - (c) By personal delivery or courier to the recipient or to the recipient's ordinary mailing address.
- 8.2 Except where otherwise provided in this Policy,
- (a) A notice given by mail is deemed received on the fifth day after it is posted;
 - (b) A notice posted on property is deemed received on the second day after it is posted; and
 - (c) A notice given by personal delivery is deemed received upon delivery.


9.0 Interpretation

- 9.1 The provisions of this Policy are severable, and where any provision of this Policy is for any reason held to be invalid by a decision of a Court of competent jurisdiction, the invalid portion must be severed from the remainder of this Policy and the decision that is invalid must not affect the validity of the remaining portions of this Policy.
- 9.2 Where a provision of this Policy is expressed in the present tense, the provision applies to the circumstances as they arise.
- 9.3 Words in this Policy that are in the singular include the plural, and words in the plural include the singular.

- 9.4 This Policy must be construed as being remedial and must be given such fair, large and liberal construction as best ensures the attainment of its objectives.
- 9.5 Reference in this Policy to an enactment is a reference to the enactment as it exists from time to time and includes any regulations made under the enactment.
- 9.6 Headings form no part of this Policy and must be construed as being inserted for reference only.
- 10.0 Force and Effect**
- 10.1 This Policy comes into force and effect on the day after it is approved by the Band Council in accordance with the Land Code.

We, the undersigned, being a quorum of the Council of the Whitecap Dakota First Nation, acknowledge and declare that we have at a duly convened Band Council meeting, approved this Development Permit Policy effective the 1st day of October, 2018.

Dated this 1st day of October, 2018.



Chief Darcy Bear



Councillor Dwayne Eagle



Councillor Dalyn Bear