

WE WAI KAI NATION

ZONING BYLAW

DRAFT 1 – JANUARY 2012

WE WAI KAI NATION ZONING REGULATIONS
Draft 1 – January 2012

1.0 INTRODUCTION

1.1 THE PURPOSE

The purpose of zoning is to establish land use regulations for the We Wai Kai Nation consistent with the We Wai Kai Nation Land Use Plan. Zoning establishes the permitted use of land, buildings, and structures within the We Wai Kai Nation. Zoning guides the growth of the community in a systematic and orderly way, ensuring that use of land and structures develop in proper relationship to one another.

2.0 GENERAL

2.1 BASIC PROVISIONS

On the five (5) designated reserve lands of the We Wai Kai Nation, no person shall:

- a) use any land, buildings or structures;
- b) commence any construction to erect, move, enlarge or structurally alter any building or structure; except as permitted by:
 - i) these regulations;
 - ii) these regulations as varied by order of the Board of Variance
 - iii) these regulations as varied by a Development Permit approved by Council.

2.2 Uses existing at the date of adoption of this bylaw have, in some cases, been zoned to recognize existing and long standing uses in transitional areas or areas planned for long-term redevelopment, or otherwise to recognize existing lot areas for older subdivisions.

2.3 Metric units are used for all measurements in this bylaw. The approximate equivalent of metric units in feet, square feet and acres are included for convenience only and do not form part of this bylaw.

2.4 A Building Inspector or Bylaw Enforcement Officer appointed by the We Wai Kai Nation is hereby authorized to enter, at all reasonable times, on any property including land and improvements, that is subject to this bylaw to inspect and determine whether the requirements of this bylaw are being met or the regulations and prohibitions under this bylaw are being observed.

2.5 Any owner or occupier of land who contravenes, or who suffers or permits any contravention of any provision of these regulations is guilty of an offence, and is liable on conviction to the maximum penalties imposed under the *Offence Act*. Where an offence under this bylaw continues for more than one day, a separate offence is committed for each day the offence continues, and separate fines, each not exceeding the maximum for that offence, may be imposed for each day during which the offence continues.

- 2.6 Green principles, including LEED (The Leadership in Energy and Environmental Design (LEED) Green Building Rating System[®]) guidelines and energy efficiency and conservation will take precedence in any Land Management activity.

3.0 INTERPRETATION AND DEFINITIONS

“ALTERATION OF LAND” means, but is not necessarily limited to: soil relocation due to building construction or alteration; removal, alteration, disruption or destruction of vegetation; soil removal or filling; construction or alteration of retaining walls, lawns, agriculture activity, or any structural change to a building or structure that results in an increase or decrease in the area or volume of the building or structure; or a change in the principal use of the property.

“ANCILLARY BUILDING” means a building or structure subordinate and supplementary to the principal building or use permitted on the same lot and, without limiting the generality of the foregoing, includes tool sheds, storage sheds, work shops, detached garages and carports.

“ANCILLARY STORAGE YARD” means a storage yard as defined herein that is only permitted secondary to and in conjunction with a permitted use.

“ANCILLARY USE” means a use that is:

- (1) naturally and normally incidental to the principal use; and
- (2) subordinate in purpose or floor area, or both, to a principal use; and
- (3) exclusively devoted to a principal use and located on the same lot as the principal use.

“AUTO REPAIR SHOP” means a building or part thereof where the services performed or executed on motor vehicles include the installation or repair of exhaust systems, electrical systems, transmissions, brakes, radiators, tires and wheels, rust proofing, diagnostic services, major and minor mechanical repairs, and in conjunction with an automotive repair garage there may be a motor vehicle service station, a towing service, and an automobile rental service for the convenience of the customers while their vehicles are being repaired.

“AUTO BODY REPAIR SHOP” means a building or part thereof used for the painting and/or repairing of automobile bodies, but does not include a wrecking or salvage yard.

“BOAT CONSTRUCTION, MOORAGE, STORAGE and RELATED FACILITIES” means the fabrication, assembly, and storage as well as the mooring, launching and loading of commercial and recreational boats, marine crafts and related marine equipment.

“BED AND BREAKFAST ACCOMMODATIONS” means overnight accommodations and a morning meal in a dwelling unit provided to the traveling public for monetary compensation for a length of stay of less than three consecutive months in any calendar year, but shall not include a rooming or boarding house, a hotel, a motel, a group home, or a restaurant.

"BUILDING" means anything constructed or placed on a lot used or intended for supporting or sheltering any use, excluding landscaping, docks, wharfs and piers.

"BUILDING CODE" means the building code established under the British Columbia Building Code Regulation as amended or replaced from time to time.

"BYLAW ENFORCEMENT OFFICER" means a Bylaw Enforcement Officer employed by or under contract to the We Wai Kai Nation.

"DWELLING UNIT" means one or more rooms with self-contained sleeping, living, and sanitary facilities containing not more than one set of cooking facilities, used or intended for use as a residence or domicile for one or more persons, but specifically excludes a recreational vehicle. Other related and supplementary definitions include:

(a) **"ANCILLARY DWELLING UNIT"** means a dwelling unit which is ancillary to a permitted non-residential use and is occupied by either the owner, or by a person (and family) employed on the lot where such dwelling unit is located, and may be situated above, behind, below or beside as an attached unit, or in a detached building from the permitted non-residential use.

(b) **"SINGLE-FAMILY RESIDENTIAL DWELLING"** means a building consisting of not more than one dwelling unit.

"ENVIRONMENTALLY SENSITIVE AREAS" means any parcel of land, large or small, located on the We Wai Kai Nation lands, contains, or includes productive, rare or sensitive habitat, ecosystems or landforms. These designated areas are sensitive to disturbance by human activity and they require special treatment in order to protect their value. Environmentally sensitive areas for the We Wai Kai Nation include the following:

1. Eagle nesting trees
2. Rare woodlands and mature old growth forests
3. Water sheds, watercourses and their associated aquatic habitats
4. Ocean foreshore
5. Unique or special land forms such as cliffs, points or coastal bluffs
6. Hazard lands including steep slopes and ravines.

"FENCE" means a closed wooden, masonry, concrete, metal, or metal and plastic fence uniformly painted, constructed of durable materials and maintained in good condition free of advertising materials, displays or notices.

"HOME BASED BUSINESS" means an occupation, business or professional practice which is carried on for remuneration or financial gain, and which is clearly ancillary to the residential use of the property and which generates little or no traffic, of which the proprietor is also a resident of the dwelling where the home occupation occurs and which does not employ more than one person who is not also a resident of the dwelling where the home occupation occurs.

"LOT" means an area designated as a separate and distinct entity on a legally recorded subdivision plan or description filed under the We Wai Kai Nation Land Department.

"LOT COVERAGE" means the area of a lot covered by buildings and structures, excluding farm buildings, expressed as a percentage, and includes any cantilevered floor area, bay/box windows and chimneys, as well as any covered decks, covered porches and entranceways. Also included are detached garages, sheds or carports that require a building permit to construct.

"LOT LINE" means the legal boundary of a lot that divides one lot from another lot, or from a road right-of-way.

"MANUFACTURED HOME" means a dwelling unit the components of which have been built offsite in a factory, and includes factory built housing and mobile homes as defined and interpreted within the BC Building Code. All mobile homes must be constructed to either the current CAN/CSA Z240 (Mobile Home) or CAN/CSA A277 (Modular Home) standards.

"PERMANENT STRUCTURE" means any building or structure that was lawfully constructed, placed or erected on a secure and long lasting foundation on land in accordance with any local government bylaw or approval condition in effect at the time of construction, placement or erection.

"RAVINE" means a narrow, steep sided valley that is commonly eroded by running water and with slope grades greater than 3:1 (run/rise).

"RECREATIONAL VEHICLE" means a vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven and primarily intended as a temporary living accommodation for recreational, camping, and travel use and including but not limited, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

"RIPARIAN AREA" means a streamside protection and enhancement area.

"SECONDARY SUITE" means an additional dwelling unit attached to the principle dwelling unit and:

- a) having a total floor area of not more than 90 square metres in area;
- b) having a floor area less than 40% of the habitable floor space of the building;
- c) having not more than two bedrooms;
- d) located within a building of residential occupancy containing only one other dwelling unit; and
- e) located in and part of a building which is a single real estate entity.

4.0 HOME-BASED BUSINESS

A home business is permitted in residential zones, but only in accordance with the following provisions:

- 4.1 all activity shall be confined to the interior of the principal dwelling;
- 4.2 the activity shall be clearly subservient and incidental to the use of the dwelling for residential purposes, and to the residential use of the lot on which the dwelling is located, and for certainty a home occupation is only permitted where ancillary to a permitted residential use, but not where ancillary to a permitted non-residential use;

- 4.3 no alteration may be made to the external appearance of the property which indicates that a home occupation is being conducted on the premises, except for one single or two-sided un-illuminated sign not larger than 0.4 square metre (4.3 square feet);
- 4.4 there shall be no noise, vibration, dust, smoke, odour, heat, or traffic generation other than that normally associated with a dwelling;
- 4.5 there shall be no external storage or outdoor display of materials, equipment, or finished products;
- 4.6 there shall be no retail sales or commodities offered for sale, except for catalogue sales, or those products or commodities produced on the premises;
- 4.7 not more than 40% of the gross floor area of the residential dwelling shall be used for the home occupation use, up to a total maximum area of 80 square metres (861 square feet);
- 4.8 not more than one person who is not a resident of the dwelling to which the home occupation is ancillary shall be employed in the activity;
- 4.9 the salvage, repair, maintenance or sale of motor vehicles or motor vehicle engines or sale of parts shall not be permitted as a home-based business.
- 4.10 Day Care Facilities, not exceeding ten (10) children up to the age of 13 years at any one time, with one non-resident employee are permitted.
- 4.11 Prohibited Home Based Business includes the following:
 - a) wrecking yards
 - b) sand and gravel processing
 - c) sawmills
 - d) vehicle or equipment repair and maintenance, vehicle recycling operations.
- 4.12 All home-based businesses must have a valid Permit issued from the We Wai Kai Lands Department.

5.0 BED AND BREAKFAST ACCOMMODATIONS

Bed and breakfast accommodations will only be permitted in accordance with the following provisions:

- 5.1 the activity shall be confined to the interior of the principal dwelling, and is only permitted where ancillary to a permitted residential use, but not where ancillary to a permitted non-residential use;
- 5.2 the principle dwelling unit shall be occupied by the owner or operator of the bed and

- breakfast establishment;
- 5.3 no more than two sleeping units to accommodate a maximum of four adult bed and breakfast guests shall be permitted in a principle dwelling unit; and
- 5.4 no alterations may be made to the external appearance of the property which indicates that a bed and breakfast establishment is being conducted on the premises, except for one (single or two-sided) sign not larger than 0.4 square metre (4.3 square feet).

6.0 ANCILLARY BUILDINGS, STRUCTURES AND USES

- 6.1 An ancillary building must be ancillary to a principal use, and is only allowed where the principal use complies with this bylaw. No ancillary building is permitted in the absence of a principal use. An ancillary building attached to a principle building by a breezeway or unenclosed structure is still defined as an ancillary building.
- 6.2 Ancillary buildings do not include buildings used, in whole or in part, as a dwelling unit or living unit.
- 6.3 Ancillary buildings on lots zoned Residential or Residential Multiple, on lots zoned Commercial and permitting residential uses, and on lots zoned Public Areas and permitting community care facilities are defined as urban ancillary buildings, and the following requirements apply:
- (a) The maximum floor area for any single urban ancillary building and the combined floor area for all urban ancillary buildings on the lot must be equal to or less than 80 square metres.
 - (b) The maximum height for any ancillary building is 5.0 metres
 - (c) No ancillary building may be located in the minimum required front yard or in any side yard adjacent to a local road, arterial or collector road, or to a highway. Otherwise, all urban ancillary buildings must be located at least 0.75 metres from side and rear lot lines. Entrances for vehicles to ancillary buildings shall only be permitted where entrance permits have been approved.

7.0 MANUFACTURED HOMES

- 7.1 A pre-fabricated, modular, or factory-made dwelling unit is permitted as the principal residence if it is:
- (a) certified under Canadian Standards Association (CSA) standard Z-240 or CSA standard A-277; and
 - (b) at least 6.5 metres wide, exclusive of carport, porches, stairways, or any other extension to the original dwelling unit.

8.0 ZONING

Residential One (R – 1) Zone Purpose: This zone provides for traditional single-family residences with the option of a secondary suite.

8.1 Permitted Uses:

On any lot, the following uses are permitted:

- a) one single-family residential dwelling
- b) bed and breakfast accommodation as defined in section 5.0
- c) home-based business as defined in section 4.0

8.2 Lot Coverage

The maximum lot coverage of all buildings is 35% for lots with greater than or equal to 600 square metres lot area, and 40% for lots with less than 600 square metres lot area.

8.3 Building Height:

The maximum height of a principal building is 8.0 metres.

8.4 Minimum Dimensions Required for Yards:

Yards in this zone must have the following minimum dimensions:

In order to provide adequate parking area, the setback in front of the opening to a garage (measured to the face of the garage door) or to a carport (measured to the outside of the support columns) shall be minimum 6.0 metres, except for lots created or where building permits were issued between January 1, 1998 and the original date of final adoption of this bylaw (minimum 5.0 metres during this period).

Front yard: minimum 4.0 metres

Rear yard: minimum 7.0 metres

Side yard: minimum 1.5 metres

Side yard adjoining a local road: minimum 3.5 metres

Front or side yard adjoining a highway, arterial or collector road: minimum 4.5 metres.

8.5 Secondary Residence:

One secondary residence may be permitted per lot in this zone. The following conditions apply to all secondary residences:

- a) maximum floor area exclusive of garages or carports is 90 square metres;
- b) not more than two bedrooms;
- c) the separation between the principal residence and the secondary residence must be at least 3 metres or the distance prescribed for spatial separation under the building code, whichever is the greater distance;
- d) driveway access to the secondary residence must be shared with access to the principal residence, unless access to the secondary residence can be provided from a rear lane or from a joint access easement with an adjacent property;
- e) the maximum height of a secondary residence shall be 7 metres.

9.0 VEHICLE RESTRICTIONS

- 9.1 No lot in a residential zone shall be used for the wrecking or storage of derelict vehicles or more than two (2) unlicensed motor vehicles.
- 9.2 No lot in a residential zone shall be used for the parking, storage, or repair of a commercial vehicle which has, or at any time has had, a licensed gross vehicle weight greater than 8,600kg, as indicated on a present or past commercial vehicle registration.
- 9.3 Parking or storage of vehicles for a single residential dwellings sited on a lot shall not exceed a combined total of more than four (4) motor vehicles, recreational vehicles, and recreational boats.
- 9.4 No lot zoned residential shall be used for the parking, storage or repair of commercial boats