

CALDWELL FIRST NATION INTERIM ZONING BY-LAW

BY-LAW NO. 003-2020

OF THE CALDWELL FIRST NATION

Purpose of Law

The purpose of this Interim Zoning Law is to:

- Delineate the land uses that are permitted on the Caldwell First Nation Reserve.
- Put in place a management system for use in the interim period between the creation of the Caldwell First Nation Reserve and the implementation of a full suite of land-use planning and laws.

ARTICLE 1 DEFINITIONS

Agriculture means the use of land for the husbandry of plants and livestock and includes the storage and sale of agricultural products and the storage and repair of farm machinery and implements used on the individual farm on which the storage and repair is taking place.

Camp means land that is used for recreational accommodation and could include temporary or permanent structures.

Commercial means any use of land for any business purpose or for the making of profit.

Council means the Chief and Council of Caldwell First Nation.

Fence means a railing, trellis, or other screening, other than vegetation, forming a boundary to or enclosing a parcel or part thereof.

Industrial means the use of land to make, assemble, and service finished products, including packaging and wholesale distribution, or the use of land to store, process or manufacture materials or products made predominantly from extracted, bulk, or raw materials, or to use land for the storage or manufacture of flammable, explosive hazardous, or noxious materials or products.

Natural Boundary means the visible high water mark of any lake, river, stream, or other body of water where the presence and action of the water are so common and usual, and so long continued as to mark the soil of the bed of the body of water a character distinct from that of its banks, in vegetation and the nature of the soil and as determined by a surveyor.

Occupation means being situated in or at the Reserve for more than 24 hours in a given period of 72 hours.

Parcel means a unit of land which is identified as a separate and distinct parcel on a legally recorded plan or description.

Residential means any form of residence including temporary residences such as trailers.

Reserve means the lands set apart for the use and benefit of Caldwell First Nation and its Band Members as further set out in **Schedule "A"**;

Structure includes a building either temporary or permanent, tent, or fire pit.

Vehicle means any motor vehicle or trailer and includes but is not limited to recreational vehicles of any type.

Waste includes refuse, rubbish, junk or disused material of any kind whatsoever and, without limiting the generality of the foregoing, includes septic tank liquor, wet and dry sewage disposal sludge, contents of privy vaults, cesspools and holding tanks for human excrement, paper, handbills, an inoperative motor vehicle, appliances, carcass of any dead animal, disused furniture, old clothing, garden refuse, earth or rock fill, old or decayed lumber, material from construction or demolition projects and other vehicles, machinery, equipment, materials or Structures apparently disused in their existing location.

Zoning Administrator means the person or official charged by the First Nation Chief and Council with administering this By-Law.

ARTICLE 2 ADMINISTRATION & ENFORCEMENT

Title

2.1 This law shall be referred to as the "Caldwell First Nation Reserve Interim Zoning Law."

Authority

2.2 This law is implemented pursuant to Caldwell First Nation's inherent right to govern its lands and pursuant to section 81(1)(g) of the *Indian Act, R.S.C., 1985, c. I-5*.

Application/Subject Area

2.3 This law applies to the entire geographical area of the Reserve and to all land, buildings and Structures including the surface of water within that area.

Administrator

2.4 Council may, by resolution, appoint or designate a person as Zoning Administrator whose duty it shall be to administer and enforce this Law.

Compliance

2.5 No provision in this law shall reduce or mitigate any need to comply with existing policies, laws, and bylaws adopted by Council. In addition, no provision in this law shall

reduce or mitigate any restrictions or regulations lawfully imposed by the Government of Canada, the Province of Ontario, or any other governmental authority having jurisdiction to make such restrictions or regulations.

Violations

- 2.6 Any person who contravenes this law or allows the contravention of this law by any act or shall be deemed to have violated provisions of this law.

Penalties

- 2.7 Council and the Zoning Administrator may administer penalties to persons found to be violating provisions of this law. Penalties assessed will be at the discretion of Council or the Zoning Administrator as set out in this law.

Enforcement Notice

- 2.8 For each contravention of this law, the Zoning Administrator or Council may issue an enforcement notice to a person against whom a contravention is alleged.
- 2.9 An enforcement notice must contain the following information:
- (a) Particulars of the alleged contravention of law in sufficient detail that a recipient of the enforcement notice would be able to identify the law and the contravention alleged;
 - (b) The amount of the penalty that the recipient is liable to pay in respect of the contravention, the amount of a discount for early payment of the penalty, the amount of surcharge for a late payment of the penalty, and the consequences of failing to respond to the enforcement notice;
 - (c) Methods of paying the penalty; and
 - (d) How to dispute the allegation in the enforcement notice.
- 2.10 An enforcement notice may be completed, issued and stored in electronic format by electronic means, or by any other means that allows the enforcement notice to be reproduced in intelligible form.
- 2.11 An enforcement notice must be issued to a named person unless it is issued in respect of a contravention involving:
- (a) A Vehicle, in which case it may be issued to the Vehicle's licence plate, the Vehicle identification number, or temporary validation permit issued under the *Highway Traffic Act, R.S.O. 1990, c. H.8*; or
 - (b) A Structure, in which case it may be issued to an unknown person and posted directly on the Structure.

Severability

- 2.12 If any section, subsection, sentence, clause or phrase of this law is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion

shall be severed and the decision that it is invalid shall not affect the validity of the remaining portions of this law.

Measurement

2.13 All measurements in this law shall be made in metric.

ARTICLE 3 GENERAL REGULATIONS

Existing Uses

3.1 Any changes in the land use or construction of new Structures on Reserve made after the adoption of this law must comply with this law.

Uses and Regulations

3.2 No land, building, or Structure within the Reserve shall be developed, used, constructed, erected, modified, converted, enlarged, re-constructed, altered, placed, or maintained except in conformance with the provisions of this law, if initiated after the adoption of this law.

Vehicles and Structures

3.3 No person shall

- (a) Leave a Vehicle or Structure on the Reserve for a period of time greater than 24 hours, unless they have obtained the prior permission of the Zoning Administrator or Council; or
- (b) Leave a Vehicle or Structure on the Reserve unattended.

Remove of a Vehicle or structure

3.4 Where a Vehicle or Structure is situated on the Reserve in contravention of this law, and the Zoning Administrator or Council has issued an enforcement notice, the contravening party will have 24 hours from the time the enforcement notice is issued to remove the Vehicle or structure.

3.5 For the purposes of this law, an enforcement notice for removal of a Vehicle or Structure will be considered issued immediately upon the ticket being posted on the Vehicle or Structure, regardless of whether the Vehicle or Structure is attended or unattended.

3.6 All costs and charges for the removal, care or storage of a Vehicle or Structure removed under section 3.4 shall be paid for by the owner of the Vehicle or Structure.

3.7 Neither the Zoning Administrator or Council shall be held liable for any damages that arise as a result of a removal of a Vehicle or Structure under this law.

Dumping

- 3.8 No person shall dump, drop, sweep, throw, cast or otherwise deposit; or permit his/her contractor, agent, employee, or minor child under his/her care or control to dump, drop, sweep, throw, cast or otherwise deposit any Waste at or on any location on the Reserve.

Uses Permitted in All Zoning Designations

- 3.9 The following uses are permitted in all zones, when approved by Chief and Council:
- (a) Public utility facilities for local transmission of water;
 - (b) Electrical power;
 - (c) Telephone;
 - (d) Natural gas;
 - (e) Cable television;
 - (f) Clearing, grubbing and site preparation for construction; or
 - (g) Archeology.

Coming into Force

- 3.10 This law will come into force on the date that the lands set out at Schedule "A" are set apart as a Reserve under the *Indian Act* R.S.C. 1985 c. I-5.

ARTICLE 4 ESTABLISHMENT OF ZONES

Zoning Map

- 4.1 The area within the boundaries of Caldwell First Nation is hereby made into a single zone named Zone 1. A map of Zone 1 is attached as schedule "A".

Zoning Boundaries

- 4.2 The zone boundaries on the Zoning Map shall be interpreted as follows:
- (a) Where a zone boundary follows a street, lane, railway, pipeline, power line, utility right-of-way, or easement, it follows the centerline, unless otherwise clearly indicated on the Zoning Map;
 - (b) Where a zone boundary is shown as approximately following the reserve boundary, it follows the reserve boundary;
 - (c) Where a zone boundary is shown as approximately following the natural boundary, it follows the natural boundary and changes with the change in the natural boundary;
 - (d) Where a zone boundary is shown as approximately following a property line, it follows the property line;
 - (e) Where a zone boundary is shown as approximately following a topographic contour line or a top-of-bank line or the high water mark, it follows that line;

- (f) Where a zone boundary is shown as being generally parallel to or as an extension of any of the features listed above, it shall be so; and
- (g) In circumstances not covered above, the zone boundary shall be determined by the scale of the Zoning Map.





ARTICLE 5 ZONE 1

Purpose

- 5.1 The purpose of this Zone is to restrict the usage of the Zone until a comprehensive regime of by-laws is put in place to govern the use of the Caldwell First Nation Reserve.
- 5.2 The following uses are **not** permitted in Zone 1:
 - (a) Industrial;
 - (b) Commercial;
 - (c) Residential;
 - (d) Agricultural;
 - (e) The clearing or removal of brush or trees,
 - (f) The burning of wood or other materials
 - (g) The Establishment of a Camp; or
 - (h) Occupation of more than a transient nature
- 5.3 On a parcel located in an area zoned as Zone 1, no building or Structure shall be constructed, located or altered, and no plan of subdivision approved which contravenes the regulations set out in this section.

THIS LAW IS HEREBY made at a duly convened meeting of the Council of the Caldwell First Nation this 18th day of November, 2020.

Voting in favour of the law are the following members of the Council:

 _____ Councillor Robyn Perkins	 _____ Chief	 _____ Councillor James Peters
 _____ Councillor Stan Scott		 _____ Councillor Steve Simpson

being the majority of those members of the Council of the Caldwell First Nation present at the aforesaid meeting of the Council.

The quorum of the Council is 3 members.

Number of members of the Council present at the meeting: 4.

SCHEDULE "A"

Legal Description of the Property

Part of Lots 9 and 10, Concession A (in the geographic Township of Mersea) now in the municipality of Leamington, County of Essex being more particularly described on parts 1 and 3 on Plan 12R-25701, being PIN 75113-0222 (LT).

