UCHUCKLESAHT TRIBE GOVERNMENT

ZONING ACT

UTS 46/2015

OFFICIAL CONSOLIDATON – CURRENT TO DECEMBER 16, 2020

This is a certified true copy of the consolidated Zoning Act UTS 46/2015, current to December 16, 2020.

Date: March 3, 2021

Signed: _____
~~Law Clerk~~

DEPOSITED IN THE REGISTRY OF LAWS AND OFFICIAL RECORDS

ON 03/03/2021

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PREAMBLE

The Uchucklesaht Tribe asserts that we have occupied, benefited from and governed our traditional territory, lands, waters and resources since time immemorial. The traditional territory of the Uchucklesaht Tribe has in the past provided the resources necessary to sustain the Uchucklesaht Tribe and we honour our connection to the lands, waters and resources of our traditional territory which provide for our physical and spiritual needs.

Through our inherent right to self-government, the Uchucklesaht Tribe has in the past worked to preserve and protect our traditional territory and today we accept the obligations and responsibilities inherent in governing Uchucklesaht Tribe lands and pledge to protect Uchucklesaht Tribe lands for future generations of our citizens. Our primary goal in governing Uchucklesaht Tribe lands is to create a healthy and prosperous future that ensures the continued existence of the Uchucklesaht Tribe as a strong political, social and cultural community that aspires to grow as an organized, determined, successful and self-reliant people. It is the desire of the Uchucklesaht Tribe that our Uchucklesaht Tribe lands continue to provide the resources necessary to sustain us, preserve our traditional ways and culture, encourage self-sufficiency and security through development and growth and to provide a home for the Uchucklesaht Tribe people forever.

We want development and growth on our Uchucklesaht Tribe lands to be conducted in a way that is transparent and accountable. It is also our desire that development and growth on Uchucklesaht Tribe lands be socially, economically and environmentally sustainable in order to foster a safer, stronger, healthier, more financially secure and more sustainable community. To this end, the Uchucklesaht Tribe will use its law making authorities recognized in the Maa-nulth Treaty and the Foreshore Agreement to manage development and growth on Uchucklesaht Tribe lands and Uchucklesaht Tribe foreshore to create the type of community we want to live in, and be a part of, in a way that achieves these goals.

The Uchucklesaht Tribe adopts this Act based on these values.

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Zoning Act.

Executive oversight

1.2 The member of the Executive holding the lands and resources portfolio is responsible for the executive oversight of this Act.

Authority and application

1.3 (a) This Act is enacted under

(i) 13.14.1a. of Chapter 13 Governance of the Maa-nulth Treaty,

(ii) sections 3.2(c) and (x) of the Constitution,

(iii) section 3.1(a) of the Foreshore Agreement, and

(iv) Part 4 of the Planning and Land Use Management Act.

(b) This Act applies to

(i) Uchucklesaht lands, and

(ii) Uchucklesaht foreshore.

Definitions

1.4 In this Act,

"accessory building" means a building, structure, or portion thereof with a use ancillary to that of the principal building and situated on the same parcel;

"accessory use" means a use of land that is incidental to the main use of the parcel;

"administration" office means a facility used for administrative, finance, and sales functions of a Principal Use on a parcel;

"agriculture" means the use of land, buildings or structures for growing, harvesting, packing, storing and wholesaling of agricultural crops for the purposes of providing food, horticultural, medicinal or farm products. Agriculture includes producing and rearing animals and range grazing of horses, cattle, sheep, and other livestock and includes apiculture and aquaculture;

"animal hospital" means any building, structure or premises in which animals are cared for, treated, maintained or hospitalized;

"average natural grade" means the point that represents the average between the natural elevation of the parcel at the rear foundation of a building and the natural elevation of the parcel at the front foundation of a building;

"aquaculture" means the growing and cultivation of aquatic plants, or fish, for commercial purposes, in any water environment or in human made containers of water, and includes the growing and cultivation of shellfish on, in or under the foreshore or in the water;

"automobile wrecking yard" means an area outside of an enclosed building where motor vehicles are disassembled, dismantled or junked or where vehicles not in operable condition or used parts of motor vehicles are stored;

"boat building and repair" means the use of land, buildings, structures or equipment for the manufacturing, finishing, servicing or repair of boats;

"boat ramp" means a structure located on a shoreline to accommodate vehicles or trailers for the purpose of launching and hauling boats out of the water;

"building" means any structure consisting of a roof supported by walls or columns used or intended to be used for sheltering, accommodating or enclosing people, animals, goods, chattels or equipment;

"building, front line" of means the extended line of the wall of the building, (or of any projecting portion of the building except balconies, steps, sills, cornices, eaves, fire escapes and unroofed porches) which faces the front line of the parcel;

"building, rear line" of means the extended line of the wall of the building (or of any projecting portion of the building except balconies, steps, sills, cornices, eaves, fire escapes and unroofed porches) which faces the rear line of the parcel;

"building, temporary" means and includes: (1) Any building (except a private garage or other accessory building) not having its exterior walls supported on continuous concrete or masonry foundation or walls. (2) Despite clause (1) above, a temporary building will also include boat shelters, bunkhouses, skid shacks, huts, tents, trailers, custom built mobile units or any other similar type of portable building or structure, whether or not the same be placed on foundations or affixed to the land in any way. A temporary building will not be construed to include permanent prefabricated residential dwellings, industrial, warehouse and storage buildings;

"campground" means a parcel of land occupied and maintained for temporary accommodation (maximum 30 days) of the traveling public in tents or recreation vehicles that are licensed for the current year and have been brought to the site by the traveler; this

may include an office as part of the permitted use but does not include cabins, hotels, manufactured homes, manufactured home parks, motels or park model trailers;

"community hall" means a building or part of a building designed for, or intended to be used by the public for such purposes as civic meetings, educational meetings, political meetings, recreational activities or social activities and may include banquet facilities;

"community services" means a use for the benefit of UT members and potentially for the wider public and includes:

(a) government office,

(b) administrative, business or public service office for cultural use or activity, including a police station, fire hall, court facility, post office, library and assembly hall,

(c) hospitals, clinics, and care facilities for Elders on Seniors,

(d) daycares,

(e) schools,

(f) public park and playground,

(g) public works including any building, structure or land used for the purposes of the maintenance, repair or storage of vehicles, equipment or construction material used in connection with providing water, sewer or drainage,

(h) facilities or highways,

(i) public utilities, including pumping stations, pressure reducing stations, switching stations, radio repeater stations, microwave towers, and weather stations, and

(j) rights of way for railways, pipelines, transmission lines, or other similar uses;

"conforming building or use" means any building or use which conforms to all the requirements of the Act, or of any amendment thereto for the zone in which such building or use is located;

"congregate housing" means a type of housing in which each individual or family has a private bedroom or living quarters but shares with other residents a common dining room, recreational room, or other facilities;

"coverage" means the combined area covered by all buildings or structures on the parcel, or any projecting portions thereof, measured at the height of the lowest storey above grade excluding the following

(a) balconies, canopies, marquees and sun shades, eaves and gutters, fire escapes, steps and similar projections; and

(b) covered parking areas which are not in or beneath any part of a principal building;

"development" means any activity carried out in the process of clearing or preparing a site or constructing or erecting structures;

"derelict vehicle" includes a vehicle, except a farm vehicle, that is not displaying a current licence, pursuant to Provincial requirements, and which is not enclosed within a garage or carport;

"dwelling unit" means one or more habitable rooms, constituting a self-contained unit with a separate entrance, and used or intended to be used together for living and sleeping purposes for not more than one family and containing a separate and properly ventilated kitchen with a sink and cooking facilities and a bathroom with a water closet, wash basin and bath or shower. A dwelling unit may be built on site, a mobile home, manufactured home, condominium unit, or modular home that meets all building code requirements;

"eating and drinking establishment" means a development where prepared foods and beverages are offered for sale to the public for consumption within the premises or off the site and includes neighbourhood pubs, licensed restaurants, lounges cafes, delicatessens, tea rooms, dining rooms, drive-in food services, refreshment stands and take-out restaurants but excludes mobile catering food services;

"family" means one or more persons related by marriage, blood, common law, adoption or foster parenthood, and not more than five (5) unrelated persons sharing one dwelling unit typical of a single-family unit or other similar basic social unit;

"farm building" means a building or part thereof which is associated with and located on land devoted to the practice of agriculture, and used essentially for the housing of equipment or livestock, or the production, storage, processing, marketing and selling of agricultural and horticultural produce or feeds;

"farm use" means an occupation or use of land for agricultural purposes, including farming of land, plants and animals and any other similar activity designated as farm use by Provincial requirement, and includes a farm operation;

"fence" means an artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land;

"fishing and trapping" means persons involved in catching fish or trapping fur-bearing animals; meeting all licensing requirements;

"floor area" means the total horizontal area of a room or group of rooms, and will be measured between the interior finished surfaces of those walls forming the perimeter of the room or group of rooms;

"floor area ratio" means the value reached when dividing the gross residential floor area of all buildings on a parcel by the area of the parcel, above the surface of the water;

"float home" means a house like structure built on a fparcelation system capable or intended for overnight use or occupancy;

"food processing" means changing the form of vegetable, mineral or animal foodstuffs for distribution or sale;

"forestry" means the management of forests, including harvesting, silviculture, log storage and logging camps but excludes the processing of trees and wood products;

"freestanding sign" means a sign supported independently of a building or any other structure and includes portable signs;

"frontage" means that length of a parcel boundary, which abuts a highway or access route in a strata plan;

"gallery" means a workshop with a total floor area not exceeding 400m^2 and may include accessory retail sales;

"gasoline service station "means a commercial venue providing for the sale of gasoline and related products, vehicle repairs, and vehicle sales to a maximum of six vehicles at any one time;

"grade or grade level" means the finished ground level at the centre of the exposed wall of a building;

"height" means the vertical distance from the finished grade to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof or to the mean level between the eaves and the ridge of a gable, hip, gambrel or other sloping roof, and, in the case of a structure without a roof, to the highest point of the structure;

"home based business" means any homecraft, professional practice, or other livelihood which is clearly incidental both to the use of a dwelling unit for residential purposes and to the residential use of a parcel occupied by a dwelling;

"hotel" means a building containing more than six sleeping units wherein accommodation is provided for transient lodgers; no sleeping unit will contain private cooking facilities and in no case will sleeping units be used for retail trade; a hotel will ordinarily include such ancillary facilities as sample rooms, banquet rooms, rooms devoted primarily to the sale of alcoholic beverages, and other activities permitted in the zone in which it is located;

"household animal" means a domesticated animal kept by a household, which is used or the product of which is used primarily and directly by the household and not for sale or profit, and includes fowl and poultry, but specifically excludes livestock;

"household livestock" means a goat, sheep, horse, or cow kept by a household, which is used or the product of which is used primarily and directly by the household;

"kennel" means any building, structure, compound, group of pens, or cages, or property which or where 5 or more dogs or cats are or are intended to be trained, cared for, bred, boarded, or kept for any purpose whatsoever, and will specifically include any building or part thereof in which 2 or more dogs are kept for breeding purposes. A dog or cat means a member of the canine or feline species which is 4 or more months in age;

"landscaping" means the planting of lawns, shrubs and trees, and the addition of fencing, walks, drives, or other structures and materials as used in landscape architecture;

"lane" means a public thoroughfare or way which affords only a secondary means of access to a parcel, at the side or rear;

"manufactured home park" means a parcel of land not subdivided pursuant to the Strata Property Act (British Columbia), used or occupied by any person for the purposes of providing spaces for the accommodation of three or more manufactured homes and for imposing a charge or rental for the use of such space;

"manufacturing" means the use of land, buildings or structures for the purpose of assembling, producing, inspecting, finishing, altering, servicing, and repairing of any goods, substance, article, or materials;

"marina" means commercial moorage, floats and boat ramps, boat houses or shelters, rental of watercraft, marine fuel sales, pump-out facilities for sewage disposal, facilities for disposal of waste oil and bilge water, public washrooms, accessory off-street parking, accessory boat repair, commercial retail uses, office space accessory to the above uses and incidental transient overnight accommodation on a vessel or watercraft. It does not include watercraft sales, transient commercial overnight accommodation in a watercraft or vessel or permanent or seasonal residential use in a float home or vessel;

"marshalling yard" means the use of land, buildings and structures to store and maintain industrial equipment and vehicles and specifically excludes a vehicle wrecking yard, and heavy equipment salvage;

"mini storage" means a building containing separate, individual self-storage units, each with a separate entrance designed, to be rented or leased to the general public for private storage of personal goods, materials and equipment;

"mobile-home" means a single family dwelling which is manufactured as a unit suitable for year-round occupancy, which is designed to be moved along the highway from time to time, and which arrives at the site complete and ready for occupancy except for placing on suitable foundations and connection of utilities;

"motel" means a building or group of buildings wherein accommodation is provided, occupied or intended to be occupied primarily by transient motorists in separate sleeping or dwelling units, none of which will be used for retail trade. A motel may include a café or restaurant and such ancillary facilities as self-service laundry, and common recreation or cooking facilities. Where the motel is located so as to be occupied primarily by transient motorists, each sleeping or dwelling unit will have its own parking space conveniently located on the parcel;

"minimum parcel size" means the minimum area of a parcel of land that can be created by subdivision;

"multi-family dwelling" means a building containing three or more dwelling units;

"natural boundary" means the visible height of water 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 in all ordinary years as to mark upon the soil of the bed of the lake, river, stream, or other body of water a character distinct from that of the banks, in vegetation, as well as in the nature of the soil itself;

"non-conforming building or use" means any building or use which does not conform to all the requirements of this Act or any amendment thereto, for the zone in which such building or use is located;

"nonresident employee" means an employee of a home-based business who is not a permanent resident of the parcel on which the home based business is located;

"parcel" means, in relation to Uchucklesaht lands or Uchucklesaht foreshore, the smallest unit into which the land is subdivided as shown on the records of the lands registry office, land title office or provincial Crown land registry, as applicable, or as indicated in Schedule 1 by an enclosed black line outlining the area of that parcel;

"parcel coverage" means the horizontal projection of the exterior walls of the building and structures on a parcel, expressed as a percentage of the parcel area, and in the case of a structure with no exterior wall, measured from the drip line of the roof;

"parcel area" means the total horizontal area within the parcel lines of a parcel;

"parcel depth" means the mean horizontal distance between the front and rear parcel lines;

"parcel width" means the mean horizontal distance between side parcel lines measured at right angles to the parcel depth;

"parcel, corner" means a parcel at the intersection or junction of two or more streets;

"parcel line, exterior side" means any parcel line common to a highway, other than a lane, which is not a front parcel line;

"parcel line, front" means any parcel line common to a parcel and one highway other than a lane, provided that, where a parcel is contiguous to the intersection of two highways, the front parcel line is the shortest parcel line contiguous to one of the highways. Where a parcel is bisected by a highway, both parcel lines abutting the highway are considered to be front parcel lines;

"parcel line, interior side" means a parcel line between two or more parcels other than the front, rear or exterior side parcel line;

"parcel line, rear" means the boundary of a parcel which lies the most opposite to the front parcel line and, where the property has only three parcel lines, the rear is the junction of the two side parcel lines;

"parcel size" means the area of land within the boundaries of the parcel but excludes the panhandle area;

"parcel width or depth" means the mean horizontal distance between the side parcel lines or front and rear parcel lines of any parcel;

"park" means any publicly-owned, held or beneficially owned outdoor land or facility specifically designed for passive or active recreation including tot-parcels, playgrounds, walkways, trails, band shells, greenbelts, buffers, nature interpretation areas, or similar land uses, including all uses permitted in Provincial Parks, and all natural and constructed landscaping, facilities, playing fields, buildings and structures consistent with the general purpose of public park land;

"parking area" means an open area of land, other than a street, used for the parking of one vehicle, excluding driveways, ramps, columns, office and work areas;

"primary mineral processing" means the use of land, buildings or structures for the moving, crushing, washing, screening, processing or storage of aggregates that originate on that parcel;

"principal use" means the main purpose for which the parcel, building or structure is used;

"principal building" means the buildings and structures on a parcel which reflect the principal permitted use of that parcel;

"product assembly use" means the assembly of component parts into a finished product, with all assembly undertaken within an enclosed building;

"pub" means a licensed establishment pursuant to the Liquor Control Act (British Columbia), serving primarily alcoholic beverages as well as some food, and may include a retail store for beer and wine;

"recreational vehicle" means a vehicle designed to be towed behind a motor vehicle or self-propelled, and includes such vehicles commonly known as travel trailers, fifth wheels, camper trailers, pick-up coaches, motorized campers, motorized homes, park model trailers and other similar vehicles, which provide temporary recreational accommodation for the traveling public;

"recreational vehicle park" means a parcel providing for seasonal or periodic accommodation of travelers not exceeding six (6) months using licensed recreational vehicles but specifically excludes a Manufactured Home Park;

"retail sales" means a building where goods, wares, merchandise, substances, articles or things are offered or kept for sale at retail, and includes storage on or about the store premises of limited quantities of such goods, merchandise, substances, articles or things, sufficient only to service such stores; and the building will not exceed 1500 m^2 per parcel;

"sawmill" means a building, structure, or area where timber is cut, sawed or planed, either to finished lumber, or as an intermediary step and may include facilities for the kiln drying of lumber and may include the distribution of such products on a wholesale or retail basis;

"screening" means a continuous 2.438 meter [8 feet] high tight board fence or wall uniformly painted or a compact evergreen hedge 1.828 meters [6 feet] in height or combination thereof, supplemented with landscape planting, that would effectively screen the property which it encloses, and is broken only by access drives and walks;

"setback" means the horizontal minimum permitted distance measured at right angles to the parcel line, between the parcel line and a building or structure, or, in the case of floodplain or a watercourses, distance measured from the natural boundary, top of bank or other reference identified elsewhere in this Bylaw;

"setback, front" means the minimum required setback area between the side parcel lines extending from the front parcel line to the nearest wall or supporting member of a building or structure;

"setback, rear" means the area between the side parcel lines extending from the rear parcel line to the nearest wall or supporting member of a building or structure;

"setback, side" means the area of the parcel which extends from the front setback to the rear setback, between the side parcel line and the nearest wall or supporting member of a building or structure;

"storage yard" means an area outside of an enclosed building where contractors or construction materials and equipment, solid fuels, lumber and new building materials, monuments and stone products, public service and utility equipment, or other materials, goods, products, vehicles, equipment or machinery are stored, baled, piled, handled, sold

or distributed, whether a principal or an accessory use. A storage yard will not be construed to include an automobile wrecking yard, a display yard or a junkyard;

"storey" means a habitable space between two floors, or between any floor and the upper surface of the floor next above, except that the topmost storey will be that portion of the building included between the upper surface of the topmost floor and the ceiling above. A basement which contains habitable accommodation will be considered as a storey;

"structure" means anything that is constructed or erected, supported by or sunk into water, and includes swimming pools, and manufactured home spaces, but specifically excludes walls and fences under 2.0 metres in height, landscaping, paving improvements and signs unless otherwise noted in this Act;

"tourist information booth" means a building or structure used to provide information to the travelling public;

"vehicle sales parcel" means an open area used for the display, sales or rental of new or used passenger motor vehicles, boats, mobile-homes, or trailers in operable condition, and where no repair work is done except minor incidental repair of vehicles to be displayed, sold or rented on the premises;

"vehicle wrecking yard" means the use of land for the dismantling or wrecking of vehicles, or for the storage of derelict vehicles and may include accessory auto body restoration and repair;

"warehousing/wholesaling" means a building or part thereof, used for the housing, storage, adapting for sale, and packaging or wholesale distribution of goods, wares, merchandise, food stuffs, and articles;

"watercourse" includes any of the following: a watercourse, whether it usually contains water or not; a pond, lake, river, creek or brook, and; a ditch, spring or wetland that is connected by surface flow to a watercourse.

Applicable requirements

1.5 Where this Act sets out two or more requirements that could apply to a situation, the most stringent requirement will apply.

PART 2 - GENERAL REQUIREMENTS

Purpose of the Act

2.1 This Act regulates the development and use of lands and the location of buildings and structures to accomplish the following:

(a) protect the lands by ensuring that any development fits the carrying capacity of the lands;

(b) protect the people by keeping health, safety and well-being at the forefront when considering any development;

(c) promote efficiencies and effectiveness in servicing;

(d) preserve the amenities on the lands and those places and features that are special;

(e) protect the value of the lands and development;

(f) protect the environment;

(g) ensure adequate access to nature and amenities for all citizens; and

(h) fulfill community goals.

Applicability of general requirements

2.2 (a) Except as otherwise specified, these general requirements apply to all zones established under this Act.

(b) The lawful use of any land and any building or structure that exists at the time of the adoption of this Act may continue to be in use or sited as is on that date, pursuant to the provisions of this Act and other relevant requirements and will be considered a legal non-conforming use.

Uses permitted on parcels regardless of parcel area

2.3 (a) All of the uses permitted in a zone are permitted on any parcel within the zone, regardless of the area or frontage of the parcel.

(b) Despite section 2.3, not more than one principal building will be permitted on any parcel in a residential zone.

Uses limited

2.4 (a) No person will use land or buildings for any use, except for those specifically permitted in the zone in which the land or building is located, either in that zone or in the these general requirements.

(b) Uses not expressly permitted in a zone are prohibited.

Minimum parcel area requirements

2.5 Minimum parcel area requirements apply upon creation of the parcel at subdivision.

Uses permitted in all zones

2.6 The following uses are permitted in all zones:

(a) public parks and recreation;

(b) Uchucklesaht government buildings provided that such buildings are located in conformity with the provisions of that particular zone;

(c) public utility facilities for local transmission of water, sewage, electrical power, telephone, natural gas, cable television, and other similar services (but not including sewage treatment plants, electrical substations, storage yards, works yards, maintenance buildings, or offices);

(d) public roads;

(e) railway tracks;

(f) the temporary use of a building as a polling station for government elections or referenda, providing that the time period of use does not exceed 60 days;

(g) temporary construction and project sales offices, provided that the use is removed within 30 days of the completion of the project;

(h) traditional and cultural activities;

(i) resource extraction activities, including forestry and silviculture pursuant to any applicable Uchucklesaht enactments.

(j) other uses permitted by other government agencies, consistent with the Maa-nulth Treaty.

Uses prohibited in all zones

2.7 (a) The use of a tent or recreational vehicle as a permanent residence is prohibited in all zones.

(b) The wrecking, salvage or storage of more than two derelict vehicles or the use of land as a salvage operation is prohibited in all zones except an industrial zone.

Single family residential development

2.8 (a) Despite the permitted uses and requirements on Uchucklesaht lands set out in this Act, a Uchucklesaht enrollee is permitted to construct one single family residential dwelling for use by them or their family members, regardless of the zone identified in this Act.

(b) In such cases, the dwelling must be located in conformity with the provisions of the applicable zone.

Height requirement exemptions

2.9 (a) The following structures are exempt from the height limitations specified in each zone:

(i) flag pole;

(ii) lighting pole;

(iii) public monument or sculpture;

(iv) spire or steeple;

(v) chimney;

(vi) transmission tower or antenna;

(vii) industrial cranes;

(viii) longhouses;

(ix) totem poles;

(x) welcome figures;

(xi) fire and hose towers;

(xii) fire observation towers; and

(xiii) water towers.

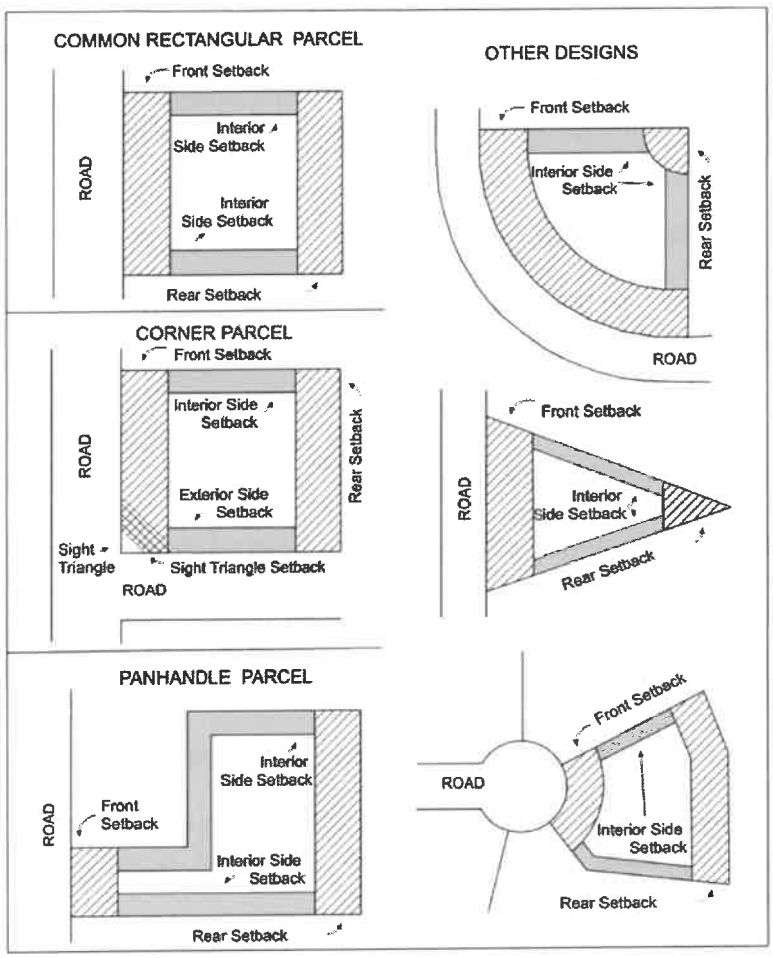
(b) No exempted structure other than transmission towers may

(i) exceed 20m in height;

(ii) cover more than 20% of the parcel; or

(iii) if located on a building, cover more than 10% of the roof area of the building.

Figure 1: Setback Areas



Setback exceptions

2.10 (a) Set back areas are set out for illustrative purposes in Figure 1 above.

(b) No structure other than the following will be located in any setback required by this Act:

(i) gutters, cornices, sills, bay windows, or chimneys may intrude no more than 0.6m into the required setback;

(ii) eaves, sunlight control projections and canopies, may project no more than

(A) 1.2m into a required front or rear setback, and

(B) 0.6m into a required side setback;

(iii) a fence;

(iv) arbors, trellises, fish ponds, ornaments, flag poles or similar landscape features, provided they are not closer than 1.0m from any parcel line;

(v) free-standing lighting poles, flag poles, warning devices, antennas, masts, cparcelhing lines, sign, and sign structures, except as otherwise limited in this or other requirement; or

(vi) patios and hard surfacing of the ground.

(c) Despite these setback exceptions, no building or structure or portion thereof may project into or over a registered statutory right-of-way.

Setbacks from water

2.11 (a) No structure will be constructed or located within

(i) 15m of any structure for flood protection or seepage control, or any dyke,

(ii) 15m of the high water mark, for any parcels fronting Uchucklesaht Inlet,

(iii) 30m of the high water mark of any fish bearing watercourse, or

(iv) 15m of the high water mark of any non-fish bearing watercourse.

(b) These setbacks may be varied by resolution of the Executive after review of an environmental assessment completed by a qualified professional and, if required by the Executive, the issuance of a Development Permit.

Temporary buildings

2.12 A temporary building or structure will not be used as a dwelling for a period longer than twenty-four hours, with the following exceptions:

(a) a trailer or travel trailer may be used as a dwelling on a transitory basis only, when located in an authorized campground;

(b) not more than one mobile-home may be occupied as a dwelling on a parcel;

(c) where a residence is under construction on a parcel one temporary building or mobile home may be occupied as a dwelling for a period not to exceed the duration of such construction. Such temporary building or mobile home will be removed upon completion of such construction;

(d) a temporary building or structure may be erected for construction purposes on a parcel being developed for a period not to exceed the duration of such construction.

Accessory buildings

2.13 (a) Accessory buildings are permitted in all zones that permit principal buildings.

(b) No accessory building or structure will be permitted in any parcel unless the principal building or structure is established on the parcel.

(c) No accessory building or structure is permitted within a required setback.

(d) An accessory building must be set back a minimum of 1.0m from another accessory building or principal building.

Wrecked vehicles and construction materials

2.14 Outdoor storage of more than two inoperable or derelict vehicles or construction materials is not permitted, except where permitted in industrial zones.

Fuel storage and distribution

2.15 (a) In any residential zone, the placement and maintenance of fuel storage tanks exceeding 50 litres will be prohibited, except where the tank is used only for storing heating fuels.

(b) All fuels, distribution pumps or devices will be located a minimum of 3.5 metres from any parcel line.

Home based business

2.16 (a) Where expressly permitted within a zone, a home-based business will comply with the following requirements:

(i) a home-based business is an accessory use that will only be conducted within the principal residential building (and accessory home where permitted), and within up to one accessory building;

(ii) there will be no exterior indication (other than a sign) that the building is being utilized for any purpose other than that of a dwelling;

(iii) a home occupation will involve no internal or external structural alterations to the dwelling;

(iv) a home occupation will not involve the use of mechanical equipment except for equipment that is normally used in a regular residential or recreational hobby use;

(v) on a parcel, the combined floor area of all home-based business uses will not exceed the lesser of 90^{m2} or 40% of the gross floor area of the principal building;

(vi) a home-based business will not be operated in a manner that routinely generates more than three client visits at any one time, however, despite this, a home-based business daycare may provide care for no more than eight persons.

(b) Unless authorized by the Executive, a home-based business may not include:

(i) stables, kennels, or animal breeding operations;

(ii) restaurants;

(iii) parking or storage of commercial, industrial, or construction equipment and material;

(iv) vehicle or equipment repair and maintenance;

(v) welding or machine shops;

(vi) uses that produce toxic or noxious matter, noise, vibrations, smoke, dust, odor, litter, heat, glare, radiation, or electrical interference other than that normally associated with a dwelling.

(c) Residents of the dwelling unit may act as employees of the home-based business.

(d) A maximum of one person who is not a resident of that dwelling unit (or the full-time equivalent) may be employed in the home-based business.

(e) All parking for the home-based business will be provided on the parcel or parcel area; a maximum of six parking spaces will be provided for the home-based business.

(f) Where possible, the parking will be located to the rear of the dwelling unit and not in the front parcel line setback area.

Subdivision

2.17 (a) Unless otherwise provided hereinafter, any parcel created under the process to raise title to a parcel of Uchucklesaht lands will be in accordance with the parcel standards prescribed for the zone in which that parcel is located.

(b) No parcel created by a subdivision will have a frontage less than 10% of its total perimeter, or have a parcel width less than the minimum requirement prescribed for the zone in which the subdivision is located, unless approved by the Director of Lands and Resources, and in no cases will a frontage be less than 4.5m, or will a relaxation of the parcel width requirement result in a frontage less than 4.5m.

(c) Where the land being subdivided is such that the last parcel to be created does not have the required minimum parcel area, the subdivision may be approved provided that the area of this last parcel is not less than 90% of the minimum parcel area requirement prescribed in the zone.

(d) For the purposes of this section, subdivision will include parcel consolidation.

Keeping of livestock

2.18 In this Act, where agriculture is a permitted use, the following restrictions apply:

(a) on any parcel 2.0 ha or less in area, the total number of livestock will not exceed one (1) animal for each 0.4 ha of parcel area; and

(b) any parcel 0.4 ha or less in area, up to twenty-five (25) poultry or fur bearing animals is permitted.

Fence heights

2.19 (a) The height of a fence will be determined by measurement from the ground level, at the place on which the fence is to be located, to the top of the fence.

(b) No fence will exceed 1.8 metres in height to the rear of a front setback and 1.2 metres in height in the front setback except:

(i) in the rural zones all fences may be up to 1.8 metres in height, and in the industrial or Commercial zones all fences may be up to 2.4 metres in height.

(ii) deer fences will not be limited in height, provided such fences are constructed of material that permits visibility, such as wire mesh.

(c) The use of barbed wire and razor wire for fencing is prohibited within all zones.

(d) The use of electric fencing is prohibited in all zones, except within a parcel that is already properly fenced.

Projections

2.20 The following features may project into a required front, side or rear yard:

(a) in the rural zones all fences may be up to 1.8 metres in height, and in the industrial or Commercial zones all fences may be up to 2.4 metres in height;

(b) deer fences will not be limited in height, provided such fences are constructed of material that permits visibility, such as wire mesh;

(c) steps;

(d) eaves and gutters, sills, bay windows, chimneys or other similar features, provided that such projections do not exceed 1 metre;

(e) open porches and canopies, provided that such projections do not exceed 2 metres. Balconies and sun shades, provided that such projections do not exceed 2 metres (these may be supported by columns);

(f) awnings over windows or doors;

(g) arbors and trellises, fishponds, ornaments, flagpoles, or similar landscape features;

(h) in commercial and industrial zones, signs that advertise the business or use housed in the building.

Parking

2.21 (a) One parking area is permitted per household.

(b) Trucks, commercial vehicles or equipment related for construction, repair, servicing, or maintenance of the premises are permitted.

(c) One boat or recreational vehicle is permitted per household.

(d) Parking may project into a required front, side, or rear yard setback.

(e) Any dismantled wrecked, or unlicensed vehicle will not be parked on a parcel or parcel area for a period exceeding 30 consecutive days.

Waterfront structures

2.22 (a) The following will be permitted in any zone and will be exempted from the minimum parcel size and width requirements of this Act:

(i) wharves, piers, floats and boat launching facilities constructed, leased, kept, or maintained by the Uchucklesaht government or an agent or agency of the Uchucklesaht government, for public purposes; and

(ii) walkways parallel to the foreshore.

(b) Where the presence of an unlighted float or wharf is likely to constitute a navigational hazard, the Uchucklesaht government may require that it carry adequate lighting to alleviate the nuisance.

PART 3 - ESTABLISHMENT OF ZONES

Establishment of zones

3.1 (a) Uchucklesaht lands are divided into the zones set out in the table below as indicated on the map set out in Schedule 1 which, for certainty, form part of this Act.

(b) A reference in this Act to an acronym for a zone or a designation under the Official Community Plan Act is a reference to the applicable zone or area of Uchucklesaht lands designated under the Official Community Plan Act.

Zone	Acronym	Official Community Plan Designation	Acronym
Residential Commercial Historical and Cultural Institutional Parks & Natural Space Light industrial	R1 C1 H1 I1 P1 IN1	Villages	V
Residential Commercial Institutional Parks & Natural Space Light industrial	R2 C2 I2 P2 IN2	Community Use Areas	CUA
Medium to Heavy industrial Commercial	IN3 C4	Resource Stewardship Areas	RSA
Traditional Use and Harvest Parks & Natural Space	TU P3	Traditional Use and Harvest Areas	TU
		Environmentally Sensitive and Hazardous Areas	ESA
Foreshore	F	Foreshore	F

Zone boundaries

3.2 (a) Where the boundary of a zone is shown along a surveyed lot line, the zone boundary is that lot line.

(b) Where the boundary of a zone is shown following a street, lane or water body, the zone boundary is the centre line of that street, lane or water body.

(c) Where the zone boundary follows the boundary of or encompassing water designated by law as navigable waters, the zone boundary will be the natural boundary of those navigable waters.

(d) Where the boundary of a zone does not follow a legally defined line and where distances are not specifically indicated, the location of the zone boundary is determined by the scaling of the zoning map.

PART 4 - RESIDENTIAL (R)

Residential

4.1 (a) The purpose of this zone is to accommodate a wide range of residential uses within the Village designation.

(b) Residential zones include both R1 and R2 zones.

Permitted uses

4.2 The following uses and no others are permitted in the R1 zone:

(a) dwelling unit;

(b) multi-family dwelling;

(c) congregate and affordable housing;

(d) boat ramp;

(e) dock;

(f) gallery;

(g) community services; and

(h) recreational uses.

Accessory uses

4.3 The following accessory uses and no others are permitted in the R1 zone:

(a) accessory buildings;

(b) one accessory dwelling;

(c) home-based business; and

(d) agriculture.

Requirements

4.4 The following requirements are applicable to the R1 zone:

Minimum Parcel Area	1100 m2 (0.27 ac)
Minimum setback	
Front parcel line	4.5m (14.8 ft)
Exterior side parcel line	4.5m (14.8 ft)
Interior side parcel line	3.0m (9.8 ft)
Rear parcel line	3.0m (9.8 ft)
All farm buildings	20.0m (65.6 ft)
Maximum building height	
Principal building	3 storeys
Accessory buildings	2 storeys

PART 5 - COMMERCIAL (C)

Commercial

5.1 (a) The purpose of this zone is to accommodate commercial uses, including indoor and outdoor commercial recreation.

(b) Commercial zones include C1 through C4.

Permitted uses

5.2 The following uses and no others are permitted in the commercial zones:

(a) eating and drinking establishments;

(b) retail services;

(c) tourist campsites;

(d) gasoline service station;

(e) marina;

(f) cultural facility;

(g) health care services;

(h) short term rental housing;

(i) animal hospital;

(j) gallery;

(k) hotel;

(l) outdoor recreation; and

(m) tourist information booth.

Accessory uses

5.3 The following accessory uses and no others are permitted in the commercial zones:

(a) accessory buildings; and

(b) single family dwelling.

Requirements

5.4 The following requirements are applicable to the commercial zone:

Minimum setback	
Front parcel line	4.5m (14.8 ft)
Exterior side parcel line	4.5m (14.8 ft)
Interior side parcel line	3.0m (9.8 ft)
Rear parcel line	3.0m (9.8 ft)
Maximum building height	
Principal building	3 storeys
Accessory buildings	2 storeys

PART 6 - INSTITUTIONAL (I)

Institutional

6.1 (a) The purpose of the institutional zone is to accommodate administrative, institutional and service uses.

(b) Institutional zones include both I1 and I2.

Permitted uses

6.2 The following uses and no others are permitted in the institutional zones:

(a) cemetery;

(b) community administrative facilities;

(c) cultural exhibits;

(d) day care centre;

(e) educational services;

(f) emergency and protective services;

(g) interpretive centre;

(h) health care services;

(i) indoor and outdoor recreation facilities;

(j) parks and playgrounds;

(k) place of assembly;

(l) community services;

(m) gallery;

(n) boat ramp;

(o) dock; and

(p) marina.

Accessory uses

6.3 The following accessory uses and no others are permitted in an institutional zone:

(a) accessory buildings.

Requirements

6.4 The following requirements are applicable to the institutional zones:

Minimum setback	
Front parcel line	4.5m (14.8 ft)
Exterior side parcel line	4.5m (14.8 ft)
Interior side parcel line	3.0m (9.8 ft)
Rear parcel line	3.0m (9.8 ft)
Maximum building height	
Principal building	3 storeys
Accessory buildings	2 storeys

PART 7 - PARKS AND NATURAL SPACE (P)

Parks and natural space

7.1 (a) The purpose of this zone is to accommodate outdoor parks and passive recreational uses.

(b) Parks and natural space zones include P1, P2 and P3 zones.

Permitted uses

7.2 The following uses and no others are permitted in the P2 zone:

(a) conservation area;

(b) cultural exhibits;

(c) interpretive centre;

(d) outdoor recreation facilities;

(e) parks and playgrounds; and

(f) gallery.

Requirements

7.3 The following requirements are applicable to the parks and natural space zones:

Minimum setback	
Front parcel line	4.5m (14.8 ft)
Exterior side parcel line	4.5m (14.8 ft)
Interior side parcel line	3.0m (9.8 ft)
Rear parcel line	3.0m (9.8 ft)
Maximum building height	
Principal building	3 storeys
Accessory buildings	2 storeys

PART 8 - LIGHT INDUSTRIAL (IN)

Light industrial

8.1 (a) The purpose of this zone is to accommodate appropriate light industrial uses that are within or in close proximity to other non-industrial uses.

(b) Light industrial zones include both IN1 and IN2 zones.

Permitted uses

8.2 The following uses and no others are permitted in the light industrial zones:

(a) marine transportation loading and unloading facilities;

(b) storage and warehousing;

(c) manufacturing or processing;

(d) sawmill;

(e) fish processing;

(f) forest development and harvesting, or value added wood processing;

(g) gravel pits (no processing);

(h) animal hospital;

(i) boat building and repair;

(j) food processing;

(k) gas station;

(l) marshalling yard;

(m) mini storage;

(n) warehousing; and

(o) wholesaling.

Accessory uses

8.3 The following accessory uses and no others are permitted in the light industrial zones:

(a) accessory buildings; and

(b) single family dwelling.

Requirements

8.4 The following requirements are applicable to the light industrial zones:

Minimum setback	
Front parcel line	7.5 m (24.6 ft)
Exterior side parcel line	7.5 m (24.6 ft)
Interior side parcel line	7.5 m (24.6 ft)
Rear parcel line	7.5 m (24.6 ft)
Maximum building height	
Principal building	3 storeys
Accessory buildings	2 storeys

PART 9 - MEDIUM TO HEAVY INDUSTRIAL (IN3)

Medium to heavy industrial

9.1 (a) The purpose of this zone is to accommodate industrial uses that support marine related industrial activities.

(b) The uses permitted in IN1 and IN2 are also permitted in this zone.

Permitted uses

9.2 Subject to section 9.1(b), the following uses and no others are permitted in the IN3 zone:

(a) freight and distribution outlets;

(b) manufacturing and processing;

(c) marine transportation loading and unloading facilities;

(d) warehousing and storage;

(e) forest development and harvesting, or value added wood processing;

(f) gravel pits and processing;

(g) marshalling yard;

(h) sawmill;

(i) vehicle wrecking yard;

(j) warehousing;

(k) wholesaling;

(l) boat building and repair; and

(m) mini storage.

Accessory uses

9.3 The following accessory uses and no others are permitted in the IN3 zone:

(a) accessory buildings; and

(b) single family dwelling.

Requirements

9.4 The following requirements are applicable to the IN3 zone:

Minimum setback	
Front parcel line	7.5 m (24.6 ft)
Exterior side parcel line	7.5 m (24.6 ft)
Interior side parcel line	7.5 m (24.6 ft)
Rear parcel line	7.5 m (24.6 ft)
Maximum building height	
Principal building	3 storeys
Accessory buildings	2 storeys

PART 10 - TRADITIONAL USE AND HARVEST (TU)

Traditional use and harvest

10.1 The purpose of this zone is to protect Uchucklesaht Tribe traditional use areas while allowing a limited range of other uses.

Permitted uses

10.2 The following uses and no others are permitted in the TU zone

(a) structures relating to Uchucklesaht enrollees harvesting, hunting and fishing;

(b) guide outfitter camps and cabins;

(c) resource extraction activities permitted by the Uchucklesaht government; and

(d) forestry and silviculture activities permitted by the Uchucklesaht government.

Accessory uses

10.3 The following accessory uses and no others are permitted in the TU zone:

(a) accessory buildings.

Requirements

10.4 The following requirements are applicable to the TU zone:

Minimum setback	
Front parcel line	7.5 m (24.6 ft)
Exterior side parcel line	7.5 m (24.6 ft)
Interior side parcel line	7.5 m (24.6 ft)
Rear parcel line	7.5 m (24.6 ft)
Maximum building height	
Principal building	2 storeys
Accessory buildings	1 storeys

PART 11 - FORESHORE (F)

Foreshore

11.1 The purpose of this zone is to protect Uchucklesaht foreshore while allowing a limited range of uses for public enjoyment.

Permitted uses

11.2 The following uses and no others are permitted in the foreshore zone

(a) authorized fishing;

(b) public recreation; and

(c) uses allowed by permit by the Uchucklesaht government.

PART 12 - ENFORCEMENT

Compliance officer

12.1 (a) Subject to subsection (c), the Executive may, by Order, designate an individual, or each individual in a particular class of individuals, as a compliance officer for the purpose of enforcement under this Act.

(b) For certainty, a compliance officer appointed in accordance with subsection (a) is an enforcement officer for purposes of the Enforcement Act and must perform the duties and may exercise the powers of an enforcement officer under section 3.2(b) of the Enforcement Act.

(c) In accordance with 13.32.5a. of Chapter 13 Governance of the Maa-nulth Treaty, a compliance officer appointed in accordance with subsection (a) must have adequate training to perform his or her duties to a standard at least equivalent to that of a bylaw enforcement officer of a local government in British Columbia.

Inspection

12.2 (a) A compliance officer may enter at all reasonable times on any property that is subject to this Act to ascertain if the provisions of this Act are being complied with.

(b) It is unlawful for any person to prevent or obstruct or attempt to prevent or obstruct any compliance officer from carrying out any official duties under this Act.

Penalties

12.3 (a) A person who contravenes this Act commits an offence and is liable, on summary conviction, to a fine not exceeding $2,000 per day for each day the offence continues up to a maximum of $5,000.

(b) The maximum fine to which a person is liable on a second or subsequent conviction for the same offence is $10,000.

PART 13 - GENERAL PROVISIONS

Regulations

13.1 (a) The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.

(b) The powers of the Executive under subsection (a) include the power to make regulations

(i) prescribing when a ticket may be issued for an offence under this Act and, if so, establishing in relation to that offence the amount of

(A) the penalty,

(B) the discounted penalty, and

(C) the surcharge penalty,

(ii) prescribing any matter or thing referred to in this Act as prescribed or to be prescribed,

(iii) prescribing the form and content of applications and notices that are required or permitted under this Act,

(iv) defining words and expressions that are used but not defined in this Act, and

(v) generally for the purpose of giving effect to this Act.

Amendments

13.2 (a) A person may apply in accordance with this section for an amendment to this Act.

(b) A person wishing to apply for an amendment to this Act under subsection (a) must provide the Director of Lands and Resources with

(i) a completed application in the prescribed form, including any additional supporting information required on that form or by the Director of Lands and Resources, acting reasonably, and

(ii) the prescribed application fee.

(c) An application under subsection (a) made in accordance with subsection (b) will be considered by Council where a similar application has not, within the previous 12 months, either been withdrawn by the applicant after being referred to a public

hearing in accordance with Part 3 of the Planning and Land Use Management Act or has been refused.

(d) Council may waive the requirements of subsection (c) in any case where it considers that, due to extraordinary circumstances, it is in the interest of the Uchucklesaht Tribe for the application to be considered.

(e) Where, after a public hearing held in accordance with Part 3 of the Planning and Land Use Management Act, an application made in accordance with subsection (b) has been approved by Council by adopting a resolution to accept an amendment to this Act in principle after second reading under section 2.8(a)(ii) of the Government Act but the amending Act cannot be enacted by Council by adopting a resolution to enact that amending Act after third reading under section 2.8(a)(iii) of the Government Act because an insufficient number of members of Council are available as a result of an election or a by-election, the application is deemed to have been refused but the person who made the application may, despite subsection (c), apply again and

(i) that application will not be referred to a new public hearing held in accordance with Part 3 of the Planning and Land Use Management Act, and

(ii) an amendment to this Act will be considered by Council for that application.

Commencement

13.3 (a) Subject to subsections (b) to (d), this Act comes into force by Order of the Executive.

(b) An Order of the Executive under subsection (a) must not be made until

(i) notice of that Order and a copy of this Act has been posted in accordance with Uchucklesaht law for at least 30 days,

(ii) notice of that Order has been published in accordance with Uchucklesaht law, and

(iii) notice of that Order has been delivered in accordance with Uchucklesaht law to

(A) British Columbia,

(B) the Alberni-Clayoquot Regional District,

(C) the Port Alberni Port Authority,

(D) any non-member ordinarily resident on Uchucklesaht lands, and

(E) a person, other than a non-member, with a registered office located on Uchucklesaht lands or is authorized to do business on Uchucklesaht lands.

(c) A notice under subsection (b) must provide an opportunity for at least 30 days to persons affected by this Act to make representations to the Executive concerning this Act.

(d) The Executive must give full and fair consideration to any representations received in accordance with subsection (c) and may, by regulation, make necessary amendments to this Act to address any reasonable concern raised by a representation received in accordance with subsection (c).

LEGISLATIVE HISTORY

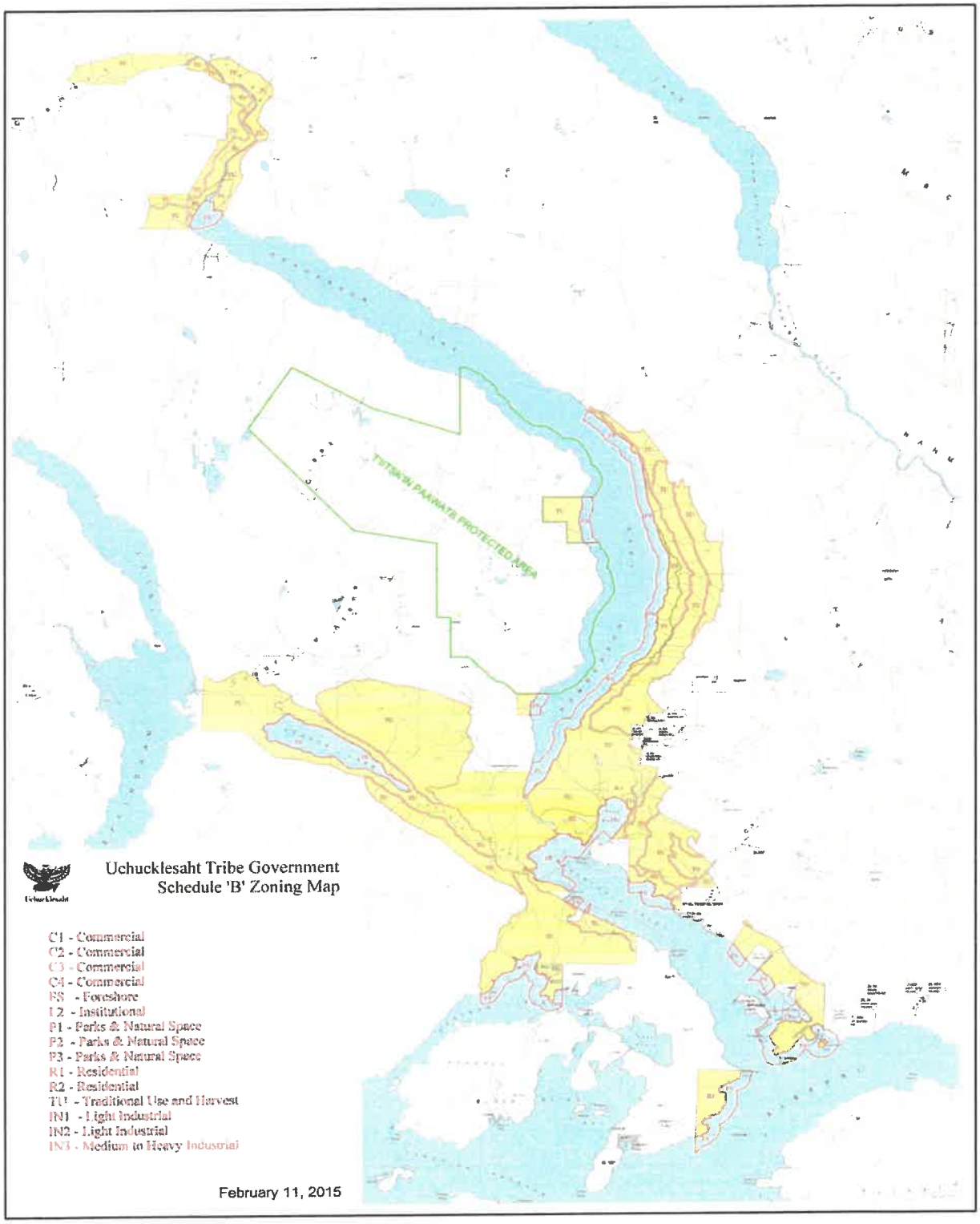
Zoning Act UTS 46/2015 enacted September 18, 2015

Amendments

Section	Amendment	In Force
2.17(a)	UTS 62/2020, s.2.3(d)(i)	December 16, 2020
2.17(a)	UTS 62/2020, s. 2.3(d)(ii)	December 16, 2020

Amending Acts:

UTS 62/2020 Land Act Fee Simple Title Amendment Act enacted December 16, 2020

SCHEDULE 1
UCHUCKLESAHT GOVERNMENT ZONING MAPS

The locations of the zones established by this Act are shown on the map set out below.