

SPUZZUM INDIAN BAND
RESIDENCY BYLAW, NO. 01-93

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**SPUZZUM INDIAN BAND
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PART 1

A Bylaw regarding the residence of Band members and other persons on the reserves of the Spuzzum Indian Band.

WHEREAS the reserves of the Spuzzum Indian Band have been set apart by Her Majesty for the use and benefit of the members of the Band; and,

WHEREAS the Indian Act, R.S.C. 1985, c. I-5, authorizes Band Councils to pass Bylaws to provide for the residence of Band members and other persons on the reserves of the Band, and to provide for the rights of spouses and children who reside with Band members on the reserve;

AND WHEREAS the Council of the Spuzzum Indian Band is responsible to the Band membership for the peace, order, and good government of the Spuzzum reserve lands;

NOW THEREFORE, the Council of the Spuzzum Indian Band enacts this Bylaw pursuant to subsections 81.(1)(c), (d), (p), (p.1), (p.2), (q) and (r) of the Indian Act, R.S.C. 1985, c.I-5.

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TITLE

1. This Bylaw may be cited as the: "Spuzzum Indian Band Residency Bylaw, No. 01-93."

INTERPRETATION

2. In this Bylaw:
 - (1) "Act" means the Indian Act, R.S.C. 1985, c. I-5, as amended from time to time;
 - (2) "Band" means the Spuzzum Indian Band;
 - (3) "Band List" means a list of Band members which is maintained by the Band;
 - (4) "Band member" means a person whose name appears on the Band List or who is entitled to have his or her name appear on the Band List;
 - (5) "child" includes a child born in or out of wedlock, a legally adopted child and a child adopted in accordance with Indian custom;
 - (6) "Council" means the Chief and Council of the Band chosen according to the custom of the Band;
 - (7) "ordinarily resides" means that a person has adopted a housing unit located on a reserve of the Band as his home, in which he ordinarily eats and sleeps and to which he intends to return after temporary absences;

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- (8) "reserve" means a tract of land, the legal title to which is vested in Her Majesty, that has been set apart by her Majesty for the use and benefit of the Band, and includes any lands which may be acquired by way of a land claim settlement;
- (9) "spouse" includes a common law union of a least two years' continuous duration between two persons of the opposite sex; and,
- (10) Use of words denoting the male gender is deemed to include the female gender, and the singular the plural where the context requires.

PART 2

RESIDENCY ENTITLEMENT

3. A Band member is entitled to reside on the reserves of the Band, subject to:

- (1) the availability of suitable residential land; and,
- (2) the existence of adequate housing resources of the Band or of the Band member; and,
- (3) his obtaining a residency permit from the Council.

4. A person who is not a Band member and who ordinarily resides on a reserve of the Band on the date this Bylaw comes into force may apply to Council for permission to continue to reside on the reserve providing he:

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- (1) ordinarily resides with a Band member who is his spouse;
or,
- (2) ordinarily resides with his dependent child who is a Band member and over whom he has legal custody; or,
- (3) is widowed from his spouse who was a Band member, and he has not subsequently married a person who is not a Band member.

5. A Band member who has ordinarily resided on a reserve of the Band prior to this Bylaw coming into force need not obtain a residency permit from the Council, as long as he remains ordinarily resident on the reserve.

6. Persons entitled to live on the reserves of the Band pursuant to sections 18.1, 28(2) and 58(3) of the Act need not apply for a residency permit, but may be required to present documentary evidence to Council, upon its request, which proves the legal entitlement of that person to live on the reserve.

PART 3

APPLICATION PROCEDURE

7. Upon this Bylaw coming into force, both Band members and non-Band members who wish to reside on a reserve of the Band shall apply to Council for a residency permit issued in the form attached as Schedule "A" to this Bylaw.

8. An application for a residency permit shall be initiated by the head of a family writing a letter to the Council which specifies whether:

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- (1) a building lot on reserve land is desired in order for the head of the family to privately build a home with the family's own funds; or,
- (2) a Band-owned housing rental unit is desired to accommodate the family; or,
- (3) a rent-to-own housing unit is desired on an agreement for sale.

9. Upon receipt of a letter of application for a residency permit, Council shall reply by:

- (1) informing the applicant of the Bands' housing policy and the extent of the housing waiting list; and,
- (2) providing the applicant with a copy of this Bylaw.

10. If the application is for a building lot on reserve, Council may issue the residency permit providing it is satisfied the applicant has the funds necessary to pay for the house construction and servicing charges to the building lot.

11. If the application is for rental of a Band-owned housing unit or occupation of a rent-to-own housing unit, the Council shall require the applicant to sign the Rental Tenancy Agreement attached as Schedule "B" to this Bylaw.

12. The Council may deny the application if the applicant has previously demonstrated disrespect for the health, safety, peace, order or good government of the Band, even if the applicant otherwise qualifies for a residency permit.

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13. The Council may appoint a Band Housing Committee to review all applications for residency permits and to recommend to Council the issuance or denial of same.

PART 4

RIGHTS OF RESIDENT NON-BAND MEMBERS

14. Non-Band members who reside on Spuzzum reserve lands pursuant to this Bylaw will not be entitled to receive or to benefit from any funding allocated by the federal or provincial governments on behalf of the members of the Band, unless those funds are specifically allocated to resident non-Band members who are ordinarily resident on Spuzzum reserve lands.

15. The community rights of a non-Band member who has been issued a residency permit include:

- (1) quiet enjoyment of his residence on the reserve; and,
- (2) expressing his opinion at Band meetings about community affairs which directly affect himself and his immediate family.

PART 5

LOSS OF RESIDENCY RIGHT

16. A person whose name has been lawfully deleted from the Band List pursuant to the Spuzzum Indian Band Membership Rules ceases to be entitled to reside on the reserve.

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17. The Council may revoke a residency permit issued under section 11 of this Bylaw if:

- (1) rent remains unpaid on the 1st day of each month, and remains unpaid after notice has been duly served pursuant to section 6 of the Rental Tenancy Agreement, attached as Schedule "B" hereto; or,
- (2) his conduct, or the conduct of a person permitted by him on or in the residential property, unreasonably disturbs the enjoyment of other persons lawfully entitled to be on the reserve; or,
- (3) he causes extraordinary damage, beyond ordinary wear and tear, to any residential property owned by the Band; or,
- (4) the numbers of persons permanently occupying the residential premises is unreasonable or more than those authorized under the residency permit; or,
- (5) he has purported to assign or sublet the residential property; or,
- (6) the permit holder marries a member of another Band and ordinarily resides on the reserve lands of the other Band.

18. For greater certainty a Band member who ceases to be entitled to reside on the reserves of the Band shall be entitled to six months within which to dispose of his property on the reserve, pursuant to section 25 of the Act.

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PART 6
APPEAL PROCEDURE

19. If the Council decides to:

- (1) deny an application for a residency permit; or,
- (2) revoke a previously issued residency permit,

the applicant or previous permit holder may appeal Council's decision to the members of the Band by filing a letter of appeal with the Council within one (1) year of the date of Council's decision.

20. Within two months of receiving the appeal, the Council shall call a general Band meeting to review the merits of the application.

21. If a majority of the adult members of the Band who are present at the Band meeting, of which two weeks written notice has been given, vote in favour by secret ballot that the appeal be granted, the Council shall issue or re-issue the residency permit to the applicant.

PART 7
ENFORCEMENT AND PENALTY

22. Failure to comply with any provision of this Bylaw shall constitute an offence punishable upon summary conviction and, if convicted, a person who fails to comply with a notice to vacate is liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding thirty days or to both, for

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each day the offence continues within the meaning of subsections 81(2) and 81(3) of the Act.

PART 8

AMENDMENTS AND SEVERABILITY

23. If any part or section of this Bylaw is declared or adjudged to be invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the validity or enforceability of any other part of this Bylaw.

24. This Bylaw may be amended by the Council from time to time.

READ, CONSIDERED AND ADOPTED AT A DULY CONVENED MEETING OF THE COUNCIL OF THE SPUZZUM INDIAN BAND ON THE 28 DAY OF JULY, 1993.

James Johnson
Chief James Johnson

Jennifer Bobb
Councillor Jennifer Bobb

Jackie Johnson
Councillor Jackie Johnson

I, James Johnson, Chief of the Spuzzum Indian Band, do hereby certify that a true copy of the foregoing Bylaw was forwarded to the Minister of Indian Affairs and Northern Development pursuant to subsection 82(1) of the Indian Act this 28 day of JULY, 1993.

(Signature)

(Signature)

[Signature]
Witness

James Johnson
Chief James Johnson