

## INTOXICANT CONTROL BYLAW

## KITASOO INDIAN BAND

## BYLAW NO. 1991-1

A BYLAW concerning the control of the use of intoxicants on the reserves of the Kitasoo Indian Band.

WHEREAS section 85.1 of the Indian Act, R.S.C. 1985, c. I-5 empowers the Council of a Band to make bylaws concerning intoxicated persons and the sale, barter, supply, manufacture or possession of intoxicants on the reserves of the Band, including exceptions thereto;

AND WHEREAS the members of the Kitasoo Indian Band have adopted a community standard of moderation in their use of intoxicants on the reserve and require that non-Band members respect that standard;

AND WHEREAS this bylaw has been assented to by a majority of the electors of the Band who voted at a special meeting of the Band called by the Council of the Band on November 15<sup>TH</sup>, 1991 for the purpose of considering this bylaw pursuant to section 85.1(2) of the Indian Act, which Band assent is annexed hereto as Schedule "A";

NOW THEREFORE the Council of the Kitasoo Indian Band enacts as follows:

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## TITLE

1. This bylaw may be cited as the Kitasoo Indian Band Intoxicant Control Bylaw No. 1991-1.

## PART I

## 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 Kitasoo Indian Band;

- (3) "Band member" means a person whose name appears on the Band List;

- (4) "Council of the Band" ("Council") means the Chief and Council chosen according to the election provisions set out under section 74 of the Act;

- (5) "intoxicant" includes alcohol, alcoholic, spirituous, vinous, fermented, malted, or other intoxicating liquor or combination of liquors and mixed liquor, a part of which is spirituous, vinous, or otherwise intoxicating, and all drinks, drinkable liquids, preparations or mixtures capable of human consumption that are intoxicating;

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(6) "intoxicated" means a person who has consumed intoxicants to a degree which renders him:

(a) incapable of caring for himself or of protecting himself against bodily injury; or

(b) a danger or a threat to the safety of other Band members or to any property on the reserve; or

(c) a nuisance to the public peace.

(7) "ordinarily resident" means a person, whether a Band member or not, who lives on the reserve where he normally eats and sleeps and includes a person who is:

(a) temporarily absent in order to attend school or to work off the reserve; and,

(b) temporarily resident on the reserve while lawfully employed there.

(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, for the purposes of this bylaw, includes a vessel or aircraft destined for the reserve and ~~a vessel or aircraft moored adjacent~~ to or in the vicinity of the reserve; and

(9) "Special Occasion" includes but is not limited to:

a) weddings;

b) birthdays;

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- c) anniversaries;
- d) feasts; or,
- e) community banquets.

(10) Use of words denoting the male gender is deemed to include the female, and the singular the plural unless the context requires otherwise.

## PART II

### PROHIBITIONS

#### 3. No person shall:

- (1) sell, barter, supply, or manufacture intoxicants on the reserve; or,
- (2) have in his possession on the reserve intoxicants otherwise than as provided for in this bylaw; or,
- (3) be intoxicated on the reserve, except in his own home or in the home of a friend or a relative; or,
- (4) cause a disturbance or nuisance in public while under the influence of an intoxicant; or,
- (5) cause or threaten to cause injury or damage to any person or property on the reserve while under the influence of an intoxicant.

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PART III

EXCEPTIONS

4. Band members and other persons who are ordinarily resident on the reserve may bring intoxicants onto the reserve, subject to the following limitations:

- (1) he must be at least 19 years of age;
- (2) he may only bring intoxicants onto the reserve once every seven (7) days; and
- (3) pursuant to section 4(2), the amount of intoxicants which he may bring onto the reserve shall not exceed the equivalent of either:
  - (a) two (2) twenty-six ounce bottles or one and half (1 1/2) liters of distilled liquor; or
  - (b) two (2) cases of twelve (12) 355 milliliter bottles or cans of beer, or the equivalent amount of 8.5 liters in different size containers.

5. Notwithstanding the provisions of section 4, Band members may bring onto the reserve excess intoxicants for a Special Occasion providing he applies for and receives from the Council a Special Occasion licence, in the form attached hereto as Schedule "B", upon payment of a licence fee of FIFTY DOLLARS (\$50.00) to the Band.

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6. The Council may exercise its discretion not to issue a Special Occasion Licence if it has determined that:
- (1) the presence of a Royal Canadian Mounted Police (R.C.M.P.) officer is desirable in order to ensure the public peace at the Special Occasion; and,
  - (2) an R.C.M.P. officer is not available to attend at the Special Occasion.
7. At any given time, a Band member or other person ordinarily resident on the reserve may only have in his possession on the reserve a total of one and a half (1 1/2) times the quantity of intoxicants stipulated in section 4.

#### PART IV

##### ENFORCEMENT AND PENALTIES

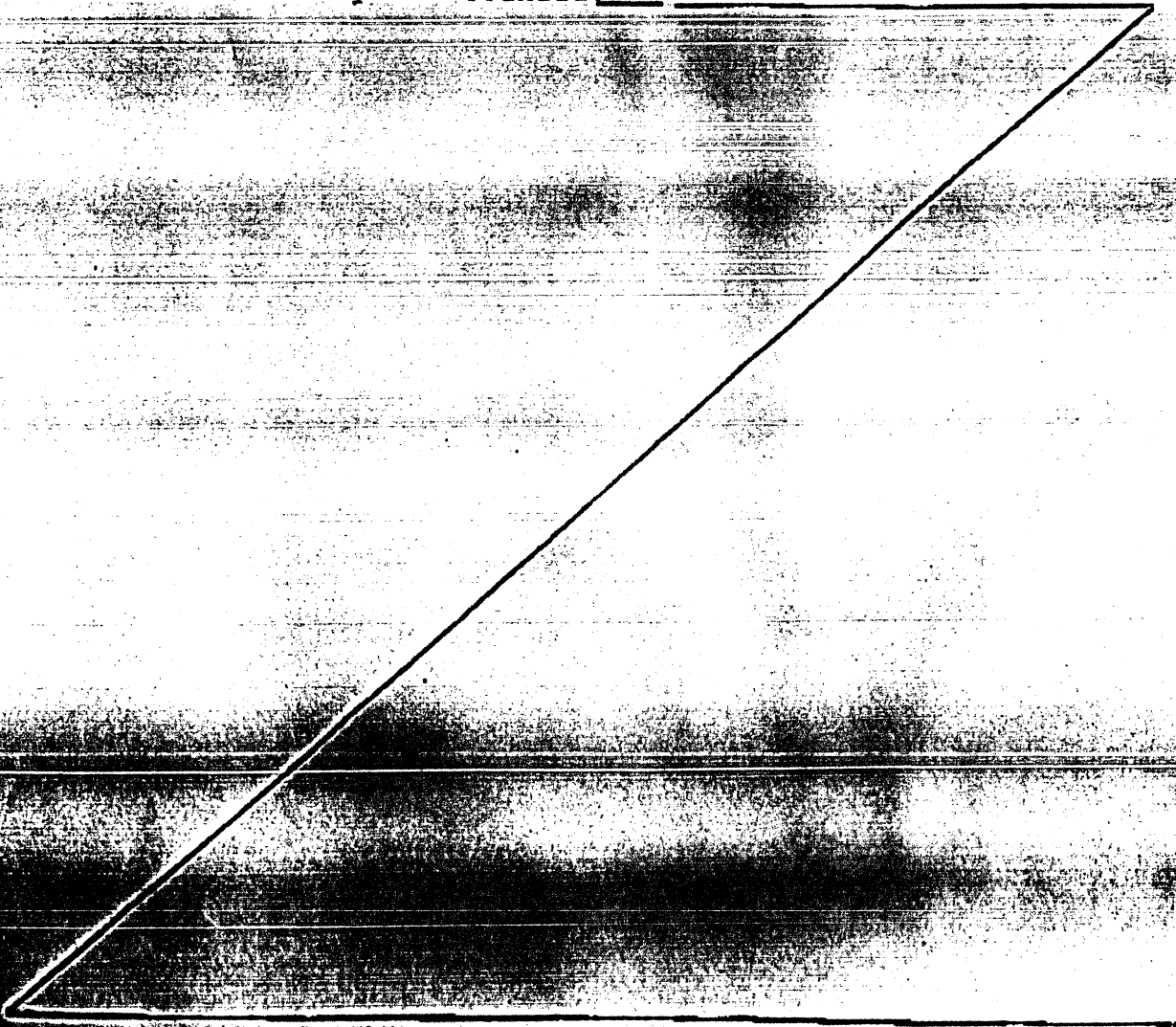
8. Council may appoint a Band member to serve as a Bylaw Enforcement Officer for the purpose of enforcing this bylaw.
9. The Bylaw Enforcement Officer appointed pursuant to section 8 shall have the powers specified under section 103 of the Act relating to the search, seizure and disposal of intoxicants prohibited by this bylaw.

10. Every person who contravenes this bylaw is guilty of an offence and is liable upon summary conviction to the penalties provided for in subsections 85.1(4)(a) and (b) of the Act, as amended from time to time.

PART V

COMING INTO FORCE

11. This bylaw shall come into force on the date of enactment by the Council, \_\_\_\_\_



Be it known that this bylaw entitled "Kitasoo Indian Band Intoxicant Control Bylaw No. 1991-1" is hereby enacted by the Council of the Kitasoo Indian Band at a duly convened meeting of the said Council held on the 15<sup>TH</sup> day of November, 1991.

The bylaw is consented to by the following members of the Council:

Leslie P. Neasloss  
Chief Councillor LESLIE PETER NEASLOSS

Frank W. Robinson  
Councillor FRANK W. ROBINSON

Ronald C. Robinson  
Councillor RONALD C. ROBINSON

Brian R. Mason  
Councillor BRIAN R. MASON

being the majority of those members of the Council of the Kitasoo Indian Band present at the aforesaid meeting of the Council.

A quorum of the Band Council is set at three (3) members.



I, Leslie P. Needles, Chief Councillor of the  
 Kitasoo 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  
 85.1(3) of the Indian Act this ~~70<sup>th</sup>~~  
18<sup>th</sup> day of November, 1991.

*J.P.N.*  
*J.S.*

*Percy Starr*

WITNESS

PERCY STARR

NAME - PLEASE PRINT

KHEMTU, B.C.

ADDRESS

VOT 120

*Band Manager*

OCCUPATION

*Leslie P. Needles*  
 CHIEF COUNCILLOR