

**KANAKA BAR INDIAN BAND  
RESIDENCY BYLAW, NO. 01-93**

**PART 1**

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

WHEREAS the reserves of the Kanaka Bar 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 Kanaka Bar Indian Band is responsible to the Band membership for the peace, order, and good government of the Kanaka Bar reserve lands;

NOW THEREFORE, the Council of the Kanaka Bar 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: "Kanaka Bar 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 Kanaka Bar 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 Kanaka Bar 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 Kanaka Bar 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 Kanaka Bar 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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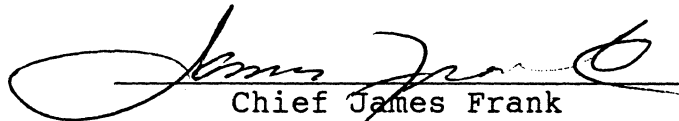
each day the offence continues within the meaning of subsections 81(2) and 81(3) of the Act.

**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 KANAKA BAR INDIAN BAND ON THE** 28  
**DAY OF** JULY, 1993.

  
Chief James Frank

  
Councillor Alvin Frank

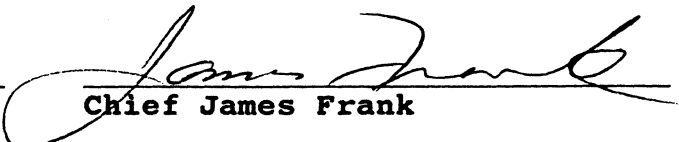
  
Councillor Evelyn Michell

I, James Frank, Chief of the Kanaka Bar 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)

  
Witness

  
Chief James Frank

**RENTAL TENANCY AGREEMENT**

**Schedule "B"**

This Rental Tenancy agreement made as of the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_ between the KANAKA BAR INDIAN BAND, the "Band", and \_\_\_\_\_, herein also known as the "Tenant", WITNESSETH THAT for and in consideration of the premises and the mutual covenants and agreements hereinafter contained, the Band and the Tenant agree as follows:

**1. OCCUPANTS**

The Tenant covenants that the following persons shall be the only permanent occupants during the term of this Agreement, unless the Band consents in writing to other persons becoming occupants, which consent will not be unreasonably withheld. The Tenant acknowledges and agrees that this covenant is a material covenant of this Tenancy Agreement and that its breach will provide grounds for Termination.

**PLEASE PRINT CLEARLY**

Full names of all adult occupants to occupy the premises (age 19 or older). Include given names for each one.


Full names and ages of all minor occupants to occupy the premises. (under age 19, including infants). Include names of each and every minor to occupy the premises and their ages.


**2. PREMISES**

The Band rents to the Tenant, for the sole use and occupation as a residential dwelling, all those certain Premises more particularly know and described as:

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**3. SERVICES & EQUIPMENT**

No furnishings, equipment or utilities shall be supplied by the Band except those checked below, which the Tenant agrees are in satisfactory condition and which the Tenant and the Tenant's guests shall keep in good condition and use carefully:

Stove	( )	Fridge	( )	Carpets	( )	Drapes	( )
Sheers	( )	Blinds	( )	Water	( )	Heat	( )
Hot Water	( )	Washer & Dryer	( )				

**4. RENTAL PERIOD**

The tenancy created by this agreement commences on the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_, and continues on a month to month basis until cancelled in accordance with this Agreement.

**5. RENT**

- (a) The Tenant agrees to pay to the Band the rent in the sum of \$\_\_\_\_\_ per month, payable in advance on the first day of each month at the Band office or at such other place as the Band may hereafter direct from time to time. Payment shall be made by cheque or money order payable to the agent of the Band, SKIHIST HOUSING SOCIETY, a Society registered pursuant to the laws of British Columbia. This rent may be adjusted pursuant to clauses 5 (d) & (e).
- (b) The Tenant is required to pay a damage deposit of \$\_\_\_\_\_ prior to occupancy which will be reimbursed to the Tenant within 30 days of vacating the home, under the "VACATING OF HOME" section of this Agreement.
- (c) The Tenant may also be required to pay heating, telephone, television cable, and hydro charges.
- (d) The Tenant agrees to make available annually to the Band, a Verification of Income and a Family Profile, which is

necessary for the Annual Rental Review. These are due on April 1st of each year. Failure to provide adequate proof of income as requested by the Band will result in the Tenant being responsible for paying the rent as originally determined in clause 5 (a).

- (e) (i) The Band may adjust the rent annually for a period of no less than 12 months. If adjusted, the anniversary date of the new rental rate shall be the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_.
- (ii) Rental adjustments may be necessary based upon changes in the economic circumstances of the Tenant, eg.: family size, employment, etc., or the availability of external subsidy.
- (f) Written notice on vacating the home must be given to the Band 30 days in advance of the vacating date. If the Tenant fails to do so, the Tenant may be subject to paying the following month's rental.

## 6. EVICTION

- (a) (i) If rent is not received on the first day of a month, an overdue notice may be issued on the 2nd of the month giving 10 days to pay the monthly rent in full;
- (ii) If the rent is not paid within the 10 days, the Band may issue an eviction notice on that day giving the Tenant 14 days to give vacant possession of the premises to the Band.
- (iii) If the Tenant fails to give vacant possession to the Band on the 14th day, the Band may remove all personal belongings at the expense of the Tenant.
- (b) Wilful damage or abuse of the house may result in:
  - (i) an additional damage deposit to pay for damages;
  - (ii) a notice of eviction; or
  - (iii) both.
- (c) Repeated disturbance of the peace may result in an eviction.
- (d) The Band maintains the right to make inspections of the home for purposes of maintenance and upkeep, upon reasonable notice to the Tenant.
- (e) All notices of eviction shall be given in writing to the Tenant.

- (f) The Tenant will abide by all rules, regulations and Bylaws implemented by the Band.

**7. INSURANCE**

- (a) The Band, as owner, will bear the cost of fire insurance for the home and chattels. The cost of personal contents insurance will be borne by the Tenant. †
- (b) (i) 100% of the deductible will be charged to the Tenant for claims as a result of wilful damage (vandalism) eg.: broken window, smoke damage.  
(ii) The Band will pay 100% of the deductible for accidental damage caused by uncommon occurrences, eg.: a fallen tree.
- (c) The Tenant shall not do or omit to do something which may render void or voidable any policy of insurance on the premises.
- (d) The Tenant shall indemnify and save the Band harmless for all liabilities, fines, suits and claims of any kind for which the Band may be liable or suffer by reason of the Tenant's occupancy of the premises.

**8. MAINTENANCE**

- (a) The Tenant will be responsible for the general upkeep and maintenance of the house. This will include minor repairs and replacements.
- (b) The Tenant is expected to report any and all damages of the home and its services and equipment as described in clause 3 to the Band.
- (c) The Band shall be responsible for all normal wear of the house.
- (d) The Tenant will not mark or deface the interior or exterior wall or floors of the house. Nor will the Tenant use any sticky tape, eg.: masking tape on any painted surfaces.
- (e) All requests for repair/maintenance service must be directed to the Band Office.
- (f) The Tenant will not make any alterations to the home without prior written consent of the Band.
- (g) All improvements will become the property of the Band.

- (h) The Tenant is responsible for maintaining the house and area surrounding the house in a clean and orderly condition.

**9. VACATING OF HOME**

- (a) Upon vacating, the dwelling must be left clean or the Tenant will be charged for cleaning;
- (b) Clean shall mean:
  - (i) all rugs cleaned, vacuumed, and stains shampooed out;
  - (ii) all floors cleaned and washed;
  - (iii) all walls cleaned and washed;
  - (iv) all electric light bulbs functioning and in place, including all fixtures whole and undamaged;
  - (v) refrigerator(s) cleaned of all food and stains and defrosted. All damage repaired to racks, etc. No surface may be scraped during defrosting. No debris shall remain under or behind the refrigerator;
  - (vi) range cleaned free of all grease inside and out, free of all debris, glass clean, no debris under or behind range. All fuses for range in working order;
  - (vii) all garbage whatsoever removed from suite, cupboards, cabinets, etc.;
  - (viii) washer and dryer cleaned inside and out. No debris under or behind washer and dryer.

**10. ASSIGN OR SUBLET**

The Tenant shall not assign or sublet the Premises.

**11. DEFAULT**

If there is more than one Tenant, the obligations hereunder shall be joint and several.

A breach of this Tenancy Agreement by the Tenant, by failing to perform or observe any of his/her covenants, or doing anything contrary to the terms of this Agreement, gives the Band the right to declare the tenancy ended, and thereupon the tenancy and the Tenant's rights hereunder shall absolutely cease, and the Band or

its agent may re-enter the premises or any part of it, and thereafter have, possess and enjoy it as if this Agreement had not been made.

**THE TENANT HEREBY ACKNOWLEDGES HAVING READ THIS TENANCY AGREEMENT AND ACKNOWLEDGES RECEIPT OF A DUPLICATE COPY.**

DATED at \_\_\_\_\_, B.C. this \_\_\_\_\_ day  
of \_\_\_\_\_, 199\_\_\_\_\_.

Agreed to and signed by the Tenant (each adult occupant)

_____	_____
_____	_____
_____	_____

**KANAKA BAR INDIAN BAND RESIDENCY BYLAW**

**RESIDENCY PERMIT**

**Schedule "A"**

This permit authorizes the following persons to reside on KANAKA  
BAR INDIAN RESERVE # \_\_\_\_\_ pursuant to section \_\_\_\_\_  
of the Residency Bylaw:

_____	_____
_____	_____
_____	_____

This permit may be revoked by the Council upon any breach of the  
peace or Bylaws of the Kanaka Bar Indian Band.

\_\_\_\_\_  
Chief \_\_\_\_\_  
(Print name)

\_\_\_\_\_  
Councillor \_\_\_\_\_  
(Print name)

\_\_\_\_\_  
Councillor \_\_\_\_\_  
(Print name)

Date Issued: \_\_\_\_\_