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SPUZZUM INDIAN BAND
RESIDENCY BYLAW, NO. 02-93

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as amended November 19, 1993

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. 02-93."

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 Certificate of Residence from the Council.

4. A person who is not a Band member may reside on the reserve, subject to the same criteria set out in section 3, 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 Certificate of Residence 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 Certificate of Residence, 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 are not ordinarily resident but who wish to reside on a reserve of the Band shall apply to Council for a Certificate of Residence issued in the form attached as Schedule "A" to this Bylaw.

8. An application for a Certificate of Residence shall be initiated by the head of a family writing a letter to the Council

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which requests that a Certificate be issued to him and the members of his family, and which specifies whether:

- (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 for purchase from the Band under an agreement for sale.

9. Upon receipt of a letter of application for a Certificate of Residence, Council shall reply within thirty (30) days by:

- (1) informing the applicant of the Bands' housing policy; and
- (2) giving a time estimate for 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 Certificate of Residence to the head of the household providing Council 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 the purchase of a rent-to-own housing unit, the Council shall require the applicant to sign the Rental Tenancy Agreement

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attached as Schedule "B" to this Bylaw before issuing the Certificate of Residence.

12. The Council may refuse to issue a Certificate of Residence if the applicant has previously demonstrated disrespect for:

- (a) the health or safety of the Band members; or
- (b) the peace, customs or bylaws of the Band.

13. The Council may appoint a Band Housing Committee to review all applications for Certificates of Residence 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 Certificate of Residence 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.

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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.

17. The Council may revoke a Certificate of Residence issued to a person 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 either by the Band or a Band member; or,
- (4) the numbers of persons permanently occupying the residential premises is unreasonable for the size and design of the residence, or more than those authorized under the Certificate of Residence; or,
- (5) he has purported to assign or sublet the residential property; or,

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(6) the head of the household named in the Certificate of Residence 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.

PART 6

APPEAL PROCEDURE

19. If the Council decides to:

- (1) deny an application for a Certificate of Residence; or,
- (2) revoke a previously issued Certificate of Residence,

the applicant or previous Certificate holder may appeal Council's decision to the members of the Band by filing a letter of appeal with the Council within ninety (90) days of the date of Council's decision.

20. Within thirty (30) days 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 fourteen (14) days written notice has been given, vote by secret ballot in favour of granting the appeal, the Council shall issue or re-issue the Certificate of Residence to the applicant.

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PART 7

ENFORCEMENT AND PENALTY

22. A person who ordinarily resides on a reserve of the Band and whose name does not appear on a Certificate of Residence, as required by sections 3 and 4 of this bylaw, commits an offence.

23. The Council may, by written order, demand any person described in section 22 to cease to reside on the reserve within thirty (30) days of the date of the order.

24. A person who fails or refuses to cease to reside on the reserve within thirty (30) days in accordance with an order issued under section 23 commits an offence against this bylaw.

25. If an offence is committed, the Council may lay an information against the person committing the offence for prosecution under this Bylaw.

26. Where a person is convicted of breach of this bylaw, he is liable to a fine upon summary conviction not exceeding \$1,000.00 or imprisonment for a term not exceeding thirty (30) days, or both, in addition to any court order prohibiting that person's continued residence on the reserve pursuant to sections 81(1)(r) and 81(2) of the Act, or as amended from time to time.

PART 8

AMENDMENTS AND SEVERABILITY

27. If any part or section of this Bylaw is declared or adjudged to be invalid or unenforceable by any court, such

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invalidity or unenforceability shall not affect the validity or enforceability of any other part of this Bylaw.

28. 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 19 DAY OF NOVEMBER, 1993.

James Johnson
Chief James Johnson

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 19 day of November, 1993.

(Signature)

(Signature)

James Frank
Witness

James Johnson
Chief James Johnson

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CERTIFICATE OF RESIDENCE

Schedule "A"

This Certificate of Residence authorizes the following persons to reside on SPUZZUM INDIAN RESERVE # _____ pursuant to section _____ of the Residency Bylaw:

_____	_____
[Head of household]	
_____	_____
_____	_____

This Certificate of Residence may be revoked by the Council upon any breach of the peace or Bylaws of the Spuzzum Indian Band.

Chief _____
(Print name)

Councillor _____ Councillor _____
(Print name) (Print name)

Date Issued: _____