

SHUBENACADIE BAND

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By-law Number: R13-1

By-law to Govern Residency on the Reserves of the Shubenacadie Band

Enacted on the 20th day of June, 2013

WHEREAS the Council of the Shubenacadie Band (“the Council”) desires to make a By-law governing the residency of persons wishing to live on the reserve;

AND WHEREAS Paragraphs 81(1)(p.1), (q) and (r) of the *Indian Act*, R.S.C. 1985, C-I-5 (hereinafter the “Act”), provide that a Council of a Band may make By-laws for the residence of Band members and other persons on the reserve, for any ancillary matters and for imposing a penalty for violating any such By-law;

AND WHEREAS it is considered necessary for the safety, health, well-being, welfare and good governance of the Band to regulate the residency of Band members and other persons on the reserve;

AND WHEREAS the Band has the jurisdiction to determine residency on the reserve;

NOW THEREFORE the Council hereby makes the following By-law:

Short Title

1. This By-law may be cited as the Shubenacadie Band Residency By-law.

Interpretation

2. In this By-law:

“age of majority” means 18 years and above;

“authorization” means permission to reside on the reserve granted by the registrar pursuant to this by-law;

“authorized person” means a person who is authorized by the registrar to reside on the reserve pursuant to this By-law;

“on the reserve” means physically located within the area defined as a “reserve” in the Act, and set apart for the use and benefit of the Shubenacadie Band and includes Indian Brook Indian Reserve No. 14, Shubenacadie (Grand Lake) Indian Reserve No. 13, Pennal Indian Reserve No. 19, New Ross Indian Reserve No. 20, Wallace Hills Indian Reserve No. 14A, and Dodd’s Lot Indian Reserve No. 14

“registrar” means the person appointed by the Band Council pursuant to section 5 of this By-law.

Handwritten initials and signatures: "G.D.", "M.K.", "R.C.", "A.M.", "R.C."

General Provisions

- 3. The following persons are entitled to reside on the reserve:
 - a. Members of the Shubenacadie Band;
 - b. Persons authorized to reside on the reserve pursuant to section 18.1, 20, 24, 28, 48(3)(b), or 58(3) of the Act.
 - c. Persons having obtained the authorization of the registrar pursuant to this By-law;
- 4. (1) A spouse or dependent child of a person entitled to reside on the reserve pursuant to section 3, who actually resides with that person, is entitled to reside on the reserve until such time as the spouse or dependent child ceases to reside on the reserve, and such entitlement is independent of the entitlement of that person.
- (2) Notwithstanding section 4 (1), any spouse or dependent of a person who has been granted permission to reside on the reserve for a defined period shall not be entitled to reside on the reserve after the end of that defined period provided that any dependent child(s) has reached the age of majority and is not physically nor mentally incapacitated.





Registrar

- 5. A registrar shall be appointed by the Band Council and has all the powers and duties conferred on him/her by this By-law.
- 6. The duties of the Registrar shall include:
 - a) receiving and processing all applications made pursuant to this By-law;
 - b) ascertaining, as far as practicable, that the information furnished by the applicant is truthful;

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Mok. [Signature]
- c) granting authorization to reside on the reserve, subject to this By-law;
 - d) maintaining a record of persons authorized to reside on the reserve under subsection 3(c) of this By-law;
 - e) reporting to the Band Council, as often as requested, on issues such as the number of applications received, the number of authorizations granted, the details of each authorization and any other information the Band Council deems pertinent; and
 - f) performing any other duties assigned by the Band Council.
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Application for Authorization to Reside on Reserve

- 7. Any person requiring authorization to reside on the reserve shall apply to the registrar.
- 8. Applications for authorization shall be made in writing to the registrar on the prescribed form, attached as Schedule "A"
- 9. The applicant shall not supply false or misleading information and shall provide the registrar with any documentation that the registrar deems appropriate.
- 10. The registrar may issue an authorization where he/she is satisfied that:
 - a) the applicant has a genuine reason for wanting to reside on the reserve, which may include family ties to the community, or business, professional or leisure interests; and
 - b) it is in the Band's interest to have the applicant reside on the reserve; and
 - c) there is adequate housing and/or land available on the reserve for the applicant; and
 - d) whether the applicant has arranged for a place to reside on the reserve; and
 - e) whether the applicant's residing on the reserve would be comparable with the culture, society and community of the Band and welfare of the Band members residing on the reserve; and
 - f) the availability of adequate housing, land, and services on the reserve; and
 - g) whether the applicant is or will be employed on the reserve; and
 - h) whether the applicant is of good moral character; and

- T.H. 
M.H. 
A.M.E. 
R.C. 
- i) all other existing and relevant legislation in force at the time have been duly considered.
 - 11. If authorization is not granted, the registrar shall immediately notify the applicant of the reasons for the refusal.
 - 12. Authorization to reside on the reserve is valid for the period specified by the registrar.

Revocation of Authorization

- 13. Any authorization may be revoked by the registrar if the authorized person materially misrepresented information in his/her application.
- 14(1) Any authorization may be revoked by the registrar where the authorized person:
 - a) fails to comply with any By-law in force on the reserve, or
 - b) commits a criminal offense against a Band member, or Band asset, or
 - c) engages in behaviour that is repugnant to the normal acceptable morals and standards of the community, or
 - d) the person has been convicted of an indictable offense under the Criminal Code (Canada), for which a pardon has not been granted (or similarly offenses outside of Canada).
 - e) the person has committed an offense under the Criminal Code (Canada) against the person or property of a Band member or other resident, for which they have been convicted and for which a pardon has not been granted.
- 14(2) Notwithstanding Section 14(1), the Registrar shall consult with legal counsel prior to rendering any refusal, revocation or termination of residency.
- 15. Prior to revoking an authorization, the registrar shall inform the authorized person of his/her intention and the reasons for revoking the authorization. The authorized person shall be afforded a period of ten (10) days to present any relevant observations and to correct any mistakes in his/her file.
- 16. In communication his/her decision to revoke any authorization, the registrar shall indicate the means by which the authorized person may ask for the decision to be reviewed.

17. Revocation becomes effective thirty (30) days after the decision is communicated to the authorized person.

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Appeal

18. The registrar is authorized to review a decision not to grant an authorization or to revoke an authorization where the applicant or authorized person disputes the decision in writing within a period of ten (10) days after the decision is communicated.

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If the revocation or non-issuance is upheld, the application or authorized person may ask within a period of ten (10) days that the disputed matter be referred by the registrar to the Band Council, which shall hear representations from the parties and determine the matter.

19. Appeal suspends revocation.

Penalty

20. Any person residing on the reserve in contravention of this By-law is guilty of an offence and is liable on summary conviction to a maximum fine of one thousand dollars (\$1,000) or for imprisonment for a term not exceeding thirty (30) days or some combination of both.

Severance

21. Should a court determine that a provision of this By-law is invalid for any reason, the provision shall be severed from the by-law and the validity of the rest of the By-law shall not be affected.

Effective Date

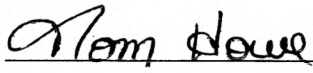
22. This By-law comes into force forty (40) days after a copy is mailed to the Minister of Indian and Northern Affairs and Northern Development (the "Minister"), being the 30th day of July, 2013, unless the Minister declares it to be in force before that date.

Authorization Issued:		
Authorization valid until:		
Issued by:		Date:

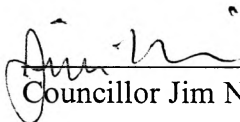
Shubenacadie Band Chief and Council- Signature page for the Shubenacadie Band Residency By-law (R13-1)


 Chief Rufus Copage

 Councillor Earl Sack

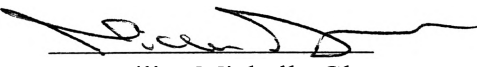

 Councillor Tom Howe

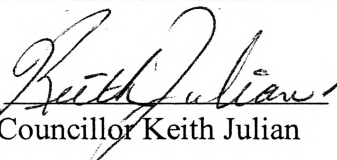
 Councillor Colleen Knockwood

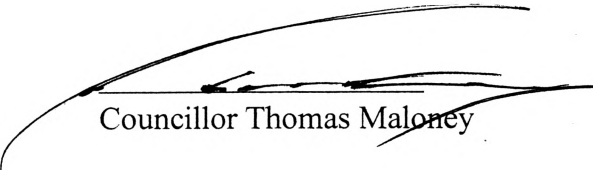

 Councillor Jim Nevin

 Councillor Jerry F Sack


 Councillor Doreen Knockwood


 Councillor Michelle Glasgow


 Councillor Keith Julian


 Councillor Thomas Maloney

 Councillor Ronnie Augustine

 Councillor Michael Sack


 Councillor Alex McDonald