

MUSQUEAM INDIAN BAND

UNSAFE PREMISES BYLAW

FEBRUARY 22, 2016

WHEREAS: section 81, paragraphs, (c), (d), (h),(p),(p.1) (q) and (r) of the *Indian Act* empower the Council of an Indian Band to pass bylaws to provide for the observance of law and order; the prevention of disorderly conduct and nuisances; the regulation of the construction, repair and use of buildings; the removal and punishment of persons trespassing on the reserve or frequenting the reserve for prohibited purposes; the residence of band members and other persons on the reserve in addition to matters arising out of or ancillary to the exercise of powers under this section and the imposition of a penalty for the violation of any such bylaw;

AND WHEREAS: the Council of the Musqueam Indian Band is of the opinion that it is in the best interest of the Band to exercise such powers.

THEREFORE, the Council of the Musqueam Indian Band enacts as follows:

1. Name

1.1 This By-law may be cited as the "Unsafe Premises By-law".

2. Interpretation

2.1 In this By-law, unless the context otherwise requires

- (a) "Band" means the Musqueam Indian Band,
- (b) "Band Manager" means the person appointed by the Band Council as the Band Manager or senior administrative officer or similar position,
- (c) "Police Officer" means a peace officer or constable as provided under the *Police Act*,
- (d) "Re-occupancy Permit" means a permission or authorization in writing by the Band Manager to re-occupy any premises in respect of which the Council has made an unsafe premises designation,
- (e) "Reserve" means any reserve of the Band,
- (f) "unsafe condition or unsafe activities" mean any condition or activities carried on at premises that could cause undue hazard or risk to life, limb or health of any person or to their security or to their enjoyment of their premises or use of areas of the Reserve open to members of the Band generally including, without limitation, activities that involve the illegal sale or use of drugs, violence or disorderly conduct,
- (g) "unsafe premises" means any premises on a Reserve in respect of which the Council has made an unsafe premises designation.

3. Designation of Unsafe Premises

3.1 The Council may designate premises on the Reserve to be unsafe premises if it is satisfied that the condition or activities carried on at the premises could cause undue hazard or risk to life, limb or health of any person or to their security or to their enjoyment of their

premises or use of areas of the Reserve open to members of the Band generally including, without limitation, activities that involve the illegal sale or use of drugs, violence or disorderly conduct.

4. Notice of Unsafe Premises Designation

4.1 If the Council designates premises to be unsafe premises, it will direct the Band Manager or a Police Officer to deliver a notice to the premises addressed to any known holder of a certificate of possession for the premises and to "the Occupier(s)." Such notice will be sufficiently delivered if placed in the letter-box for the premises or posted on the premises.

5. Prohibition of Unsafe Conditions and Activities

5.1 No person shall permit premises to be in an unsafe condition or permit unsafe activities to take place in any premises. Any certificate of possession holder, tenant, lessee or occupier of such premises shall forthwith take all necessary action that is within his or her control to put and maintain the premises in a safe condition.

6. Order to Correct Unsafe Conditions or Activities

6.1 When premises have been designated by Council as unsafe premises, the Band Manager may issue a written order to any certificate of possession holder, tenant, lessee or occupier of the premises requiring correction of the unsafe condition or unsafe activities within a specified time that may be immediately.

6.2 If the Band Manager has issued an order in accordance with this section and it has not been complied with, the Band Manager may authorize demolition, closure, termination of occupancy, posting of security guards or fire wardens, or enclosure of premises, or part thereof, at the expense of the certificate of possession holder, tenant, lessee or occupier and take such other measures as may be necessary to protect members of the Band or the public.

6.3 When immediate measures must be taken to avoid an imminent danger or risk, the Band Manager may take such action as is appropriate, without prior notice and at the expense of the certificate of possession holder, tenant, lessee or occupier of the premises.

6.4 Upon issue of an order under this section, any entitlement of any person to occupy the premises, including entitlement under the provisions of the *Indian Act*, a lease or rental agreement, shall be governed by the provisions of the order unless and until a re-occupancy permit is granted.

7. Re-Occupancy Permit

7.1 The certificate of possession holder or tenant, lessee or occupier shall obtain a re-occupancy permit prior to any occupancy of any unsafe premises in respect of which the Band Manager has issued an order to terminate occupancy.

8. Authority of Police Officer and Band Manager

- 8.1 A notice under section 4 or an order under section 6 will constitute authority to any Police Officer and the Band Manager, or anyone authorized by the Band Manager, to take all steps that may be reasonably required in his or her opinion to cause compliance with the notice or order including taking proceedings under any applicable statute to obtain a court order to enforce the notice or order.
- 8.2 Any Police Officer and the Band Manager, or anyone authorized by the Band Manager may enter any premises at any reasonable time for the purpose of administering this Bylaw, or if there is reason to believe that unsafe conditions or unsafe activities exist with respect to any premises on the Reserve.

9. Offences and Penalties

- 9.1 No person shall disobey a notice under section 4 or order under sections 6 of which he or she has knowledge.
- 9.2 No person shall interfere with, resist or otherwise obstruct the Band Manager or a person authorized by the Band Manager or a Police officer who is enforcing this By-law.
- 9.3 Every person who violates any of the provisions of this By-law, or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this By-law, or who neglects to do or refrains from doing anything required to be done by any of the provisions of this By-law, or who does any act which violates any of the provisions of this By-law, shall be deemed to be guilty of an offence against this By-law and liable to the penalties hereby imposed.
- 9.4 Every person who commits an offence against this By-law is liable on summary conviction to a fine of not more than \$1,000.00 or imprisonment for a term not exceeding thirty days, or both.

10. General

- 10.1 It is the intention of Band Council that each separate provision of this By-law shall be deemed independent of all other provisions, and if any provision of this By-law is declared invalid all other provisions shall remain valid and enforceable.
- 10.2 This Bylaw shall apply to all Reserves.
- 10.3 This Bylaw shall come into force when it a copy of it is first published on the Band's Internet site, in the First Nations Gazette or in a newspaper that has general circulation in the Reserve whichever the Council considers appropriate in the circumstances pursuant to section 86 of the *Indian Act* and the Council hereby confirms that any of these forms of publication are appropriate in the circumstance.

10.4 Without limiting other means of knowledge, a person shall be deemed to have knowledge of a notice under section 4 or order under section 6 after the notice or order is posted at the Band Office for at least one week.

THIS BYLAW IS HEREBY made at a duly convened meeting of the Council of the Musqueam Indian Band this 22nd day of February 2016.

Voting in favour of the bylaw are the following members of the Council:



CHIEF WAYNE SPARROW



(Member of the Council)

(Member of the Council)



(Member of the Council)

(Member of the Council)



(Member of the Council)

(Member of the Council)



(Member of the Council)



(Member of the Council)

(Member of the Council)



(Member of the Council)

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

The quorum of the Council is 5 members.

Number of members of the Council present at the meeting: 6.