



**SPIRIT BAY UTILITY SERVICES LAW
BEECHER BAY FIRST NATION**

**A Law for the Purpose of Providing Utility Services
to the Spirit Bay Economic Development Zone**

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WHEREAS:

- A. The Beecher Bay First Nation has an inherent right to self-government which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;
- B. The Beecher Bay First Nation has taken over control and management of Beecher Bay Reserve lands and resources pursuant to the First Nations Land Management Act and *Framework Agreement on First Nation Land Management* and has enacted the *Beecher Bay Land Code* effective the 1st day of August, 2003;
- C. Under the *Beecher Bay Land Code*, Beecher Bay Council is authorized to pass various laws relating to lands including laws under section 6 for “regulation, control, authorization and prohibition of the occupation and development of land”, “creation, regulation and prohibition of interests and licenses within Beecher Bay Lands” and the “provision of local services and the imposition of user charges”;
- D. Beecher Bay has prepared a draft Land Use Plan in February, 2005 and the community approved a revised land use plan for the Spirit Bay Economic Development Zone on September 17, 2013, which broadly delineates conceptual land use designations for the area;
- E. The community voted to amend the Land Code on July 10, 2013 to enable the Spirit Bay development;
- F. Council believes it is in the interests of Beecher Bay to regulate and plan for utilities and utility usage within the Spirit Bay development; and
- G. These utilities and this utility usage are integral to the Spirit Bay development;

NOW THEREFORE this *Beecher Bay Spirit Bay Utilities Law* is hereby enacted at a duly convened meeting as a Law of the Beecher Bay First Nation Council.

PART 1. NAME

1.1 This Law may be cited as the *Beecher Bay Spirit Bay Utilities Law*.

PART 2. PURPOSE

2.1 The purpose of this Law is to plan for and enable development, land management and the delivery of Utility Services within the Spirit Bay Economic Development Zone and particularly the Spirit Bay development.

PART 3. WHERE THIS LAW APPLIES

3.1 The provisions of this Law apply to the area within the Spirit Bay Economic Development Zone.

PART 4. DEFINITIONS

4.1 For the purposes of this Law, terms have the same definitions as in the Land Code;

4.2 For the purposes of this Law, the following definitions apply:

“Band Manager” means any person who is appointed and employed by Council in the capacity of the Band Manager of Beecher Bay;

"Beecher Bay" means the Beecher Bay First Nation, the Beecher Bay Indian Band or the Scianew First Nation;

"Law Enforcement Officer" means any person or persons appointed by Council, from time to time, to administer and enforce the provisions of Beecher Bay Laws enacted by Council, and includes any delegate, the RCMP and any peace officer;

“Person” includes an individual, a partnership, a corporation, a trust, an unincorporated association or other entity or agency or political subdivision thereof, and their heirs, executors, administrators and other legal representatives;

"Premises" means a store, office, shop, building, home, warehouse, storage area, factory, structure, enclosure, temporary or permanent vending stand, yard or other definite area occupied or capable of being occupied by a Person for the purpose of a residence, Business or otherwise and includes any area situated within any of the foregoing where a separate class or type of Business is carried on, by a separate operator, all in accordance with applicable laws and zoning;

“Spirit Bay Economic Development Zone” means the ‘Economic Development Zone (Residential)’ and the ‘Economic Development Zone (Industrial)’ both as set out in the map entitled ‘Prepared by the Trust for Sustainable Development’, dated September 23, 2013 but with the boundaries being the combined outer boundaries of Lot 29, Lot 30, Lot 31 and Lot 32 all as shown on 102398 CLSR BC, a copy of which is set out in the map attached as Schedule ‘A’ to this Law;

“Spirit Bay Utilities Ltd.” means the company incorporated for the purpose of providing the Utility Services and which is majority owned by Beecher Bay; and

“Utility Services” means, unless otherwise prescribed by a regulation under this Law, electricity, heating, cooling, propane or natural gas delivered by a system of interconnected pipes to the Premises, water and sewer services.

PART 5. GENERAL PROVISIONS

- 5.1 The headings of parts and sections in this Law have been inserted as a matter of convenience and for reference only and in no way define or limit or any of its provisions.
- 5.2 In the event that all or any part of any section or sections of this Law are found by a court of competent jurisdiction to be invalid, such sections shall be severable, and the remaining portions or sections shall remain in full force and effect.
- 5.3 Neither Beecher Bay, Council, the Lands Office nor any Beecher Bay Department or official are liable or in any way responsible for the quality, provision or lack of provision of Utility Services by Spirit Bay Utilities Ltd.

PART 6. PROVISION AND USE OF UTILITY SERVICES

- 6.1 Subject to this law, Spirit Bay Utilities Ltd. is given the exclusive right to provide Utility Services to all Premises within the Spirit Bay Economic Development Zone.
- 6.2 With the written consent of Council, not to be unreasonably withheld, Spirit Bay Utilities Ltd. may contract with third parties to provide all or a portion of the Utility Services provided that the Spirit Bay Utilities Ltd. shall continue to remain liable for the provision of Utility Services.
- 6.3 Provided that Utility Services are available through Spirit Bay Utilities, all Premises within the Spirit Bay Economic Development Zone shall be required to connect to, use and pay for all applicable Utility Services through Spirit Bay Utilities Ltd.
- 6.4 Term, conditions and rates set by Spirit Bay Utilities for Premises in the Spirit Bay Economic Development Zone shall be:
 - (a) approved in writing by Beecher Bay Council, and
 - (b) just and reasonable and for clarity without unreasonable discrimination between those who are similarly situated or who fall into one class of customer.
- 6.5 The installation and operation of Utility Services and related infrastructure and services shall:
 - (a) comply with all Beecher Bay laws;
 - (b) the Beecher Bay Environmental Management Plan; and
 - (c) comply with all applicable standards and technical requirements.

- 6.6 Spirit Bay Utilities Ltd. shall obtain and maintain the insurance coverage and maintain a reserve fund as required by:
- (a) the British Columbia Utilities Commission;
 - (b) Beecher Bay Laws; or
 - (c) Industry standards for utility companies.
- 6.7 Any disputes between Spirit Bay Utilities Ltd. and the interest-holders or occupants or Premises will be subject to resolution in accordance with Section 39 of the Land Code.

PART 7. PROHIBITIONS

- 7.1 No Person shall offer, sell, provide or receive Utility Services within the Beecher Bay Development Zone except in accordance with this Law.

PART 8. INSPECTIONS, OFFENCES, PENALTIES AND ENFORCEMENT

Inspection

- 8.1 The Band Manager, Lands Manager, an Enforcement Officer, an Enforcement Monitor, and any other official authorized by Council is authority to enter onto any property and, with 24 hours' notice, enter into any Premises to carry out inspections to determine whether or not this Law is being complied with.

Penalties

- 8.2 A person who contravenes this Law or an order made by a court pursuant to this Law is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 for each offence.
- 8.3 A fine payable under paragraph 8.2 shall be remitted to Beecher Bay by the court, after reasonable court costs have been deducted.

Offences

- 8.4 It is an offence to:
- (a) obstruct, interfere with, or deny access to an inspector, Law Enforcement Officer, or other individual who is designated to enforce this Law, or
 - (b) connect to or use Utility Services in the Spirit Bay Economic Development Zone except as provided under this Law.

Suspensions and Disconnections

- 8.5 In addition to any other remedies or penalties under this Law, the Band Manager or the Lands Manager may:
- (a) issue an order to suspend any use of Utility Services in the Spirit Bay Economic Development Zone if they are not in compliance with this Law;
 - (b) order the disconnection to or use of any Utility Services in the Spirit Bay Economic Development Zone if they are not in compliance with this Law; and
 - (c) if any of the above orders are disobeyed, stop or disconnect any non-compliant Utility Services at the expense of the person who has connected or been using them.

PART 9. COMING INTO FORCE

Date Law Comes into Force

9.1 This Law shall come into force and effect on the date it is passed by Council Resolution.

BE IT KNOWN that this Law entitled the *Beecher Bay Spirit Bay Utilities Law* is hereby enacted by a quorum of Council at a duly convened Council of the Beecher Bay First Nation held on _____, 2016.

(BCR# _____)

Chief Russell Chipps

Gordon Charles

Bernice Millette

A Quorum consists of 2 Council