





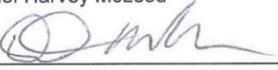
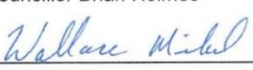

# Upper Nicola Band

## Private Ownership Policy and Procedures



**Upper Nicola Band  
Private Ownership Policy & Procedures**

Effective Date: March 18 2016

	<h1 style="font-family: cursive;">Upper Nicola</h1>	<h2 style="font-size: 1.2em;">Band Council Resolution</h2>
The Council of the <b>Upper Nicola Band</b>	BCR Chronological No.: 2016-03-17-05	
<b>Physical:</b> 2225 Village Road, Douglas Lake, BC <b>Mailing:</b> Box 3700, Merritt, British Columbia V0K 1B8	File Reference (if applicable):	
Date: <b>March 17, 2016</b>		
<p><b>WHEREAS</b> the Upper Nicola Band Housing mandates are to provide adequate and safe housing for the use of its members, to ensure that current building standards are met, and to ensure that financing, both existing and new construction, and housing responsibilities of community members are met.</p> <p><b>WHEREAS</b>, Upper Nicola Band engaged Turtle Island Associates to assist to update existing Housing Policies under the capacity development initiative of the First Nation Market Housing Fund initiative.</p> <p><b>WHEREAS</b> Upper Nicola Band will replace the Upper Nicola Band Housing Policy, approved July 4, 2013 with new policies:</p> <ol style="list-style-type: none"> <li>1. Rent – to own Housing Program Policy and Procedures</li> <li>2. Rental Housing Policy and Procedures</li> <li>3. Market Based Housing Policy and Procedures</li> <li>4. Private Ownership Policy and Procedures</li> </ol> <p><b>WHEREAS</b> the Upper Nicola Band Housing Policies are consistent with the Upper Nicola Band Vision ‘A strong flourishing community in harmony with our Tmix’;</p> <p><b>THEREFORE BE IT RESOLVED</b> that we accept the following Upper Nicola Band Housing Policies:</p> <ol style="list-style-type: none"> <li>1. Rent – to own Housing Program Policy and Procedures</li> <li>2. Rental Housing Policy and Procedures</li> <li>3. Market Based Housing Policy and Procedures</li> <li>4. Private Ownership Policy and Procedures</li> </ol> <p>as presented on March 17, 2016.</p>		
<p>A quorum for this Band consists of <b>(5) FIVE</b></p>		
 Chief Harvey McLeod	 Councillor Brian Holmes	 Councillor David Lindley
 Councillor Dennis MacDonald	 Councillor Wallace Michel	 Councillor George Saddleman

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## **1 Background and Purpose of the Policy**

The housing mandates of the Upper Nicola Band are to provide adequate and safe housing for the use of its members, to ensure that current building standards are met, and to ensure that financing, both existing and new construction, and housing responsibilities of community members are met.

The private ownership policy relates to housing units that are located within Upper Nicola Band reserve lands that are privately owned by individuals, and not owned by Upper Nicola Band.

The purpose of the private ownership policy is to confirm the responsibilities for privately owned units located within Upper Nicola Band lands.

Chief and Council has reviewed the administration of housing services and has approved this housing policy to guide the delivery and administration of housing services to the community.

## **2 Policy Objectives**

The objectives of the private ownership housing policy are to:

- a) Confirm the responsibilities of the UNB member that owns a housing unit located within Upper Nicola Band lands; and
- b) Confirms the responsibilities of Upper Nicola Band with respect to privately owned housing units; and
- c) To promote owner's responsibility for housing.

## **3 Definitions**

**Building insurance** means protection against property damage from risks such as fire and accidental damage but excluding loss or damage to personal property/possessions.

**Calendar day** means any day of the week, month or year including weekend days (i.e. Saturday or Sunday).

**Community or the community** means Upper Nicola Band.

**Council** means the Upper Nicola Band Chief and Council.

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**Health and safety standards** means the minimum requirements for housing that are related to public health as defined in the BC Ministry of Health Public Health Act and safety and structural efficiency as defined in the British Columbia Building Code.

**Housing department** means the department responsible for the administration, management and enforcement of the housing policy and the day-to-day delivery and administration activities related to the Upper Nicola Band housing portfolio.

**Housing manager** means the individual responsible for the delivery and administration of Upper Nicola Band housing programs and services.

**Immediate family** means a spouse (married or common-law), parent, child, brother and/or sister.

**Owner** means the registered owner who holds traditional land ownership or Certification of Possession (CP) for property located within Upper Nicola Band reserve lands.

**Unit** means the unit occupied by the owner.

**Upper Nicola Band** or **UNB** means the eight Upper Nicola Band reserves which include Nicola Lake (I.R. #1), Hamilton Creek (I.R. #2), Douglas Lake (I.R. #3), Spahomin Creek (I.R. #4), Chapperon Lake (I.R. #5), Chapperon Creek (I.R. #6), Salmon Lake (I.R. #7) and Spahomin Creek (I.R. #8).

**Working days** means every official working day of the week which include the days between and including Monday to Friday and exclude weekends and public holidays.

Words used in the singular within this policy shall include the plural and vice versa.

#### **4 Policy Administration**

This policy applies to:

- All existing and future privately owned property/units located within Upper Nicola Band lands; and
- All individuals currently occupying a privately owned unit.

The housing department is responsible for the day-to-day administration and enforcement of all housing programs and services.

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## **5 Amendments to the Housing Policy**

- 5.1 The housing manager shall present proposed policy amendments to Chief and Council for approval. Amendments shall be approved by a motion by Chief and Council at a duly convened Council meeting. Approved amendments shall be posted at the administration office and on the Upper Nicola Band website for a minimum of 30 days. Amendments shall be made as directed by Council and shall take effect on the date of the said meeting. The decision of Council shall be final.
- 5.2 The housing department shall note the amendment on a policy amendment list in the format noted below. The policy amendment list shall precede the table of contents within the policy. Amendments are numbered consecutively on the policy amendment list by date of approval by Council until a new issue of the policy is released which contains all amendments listed. The reissued policy shall be identified by date and each reissue cancels and replaces all previous issues.

<b>Amendment Number</b>	<b>Approval Date</b>	<b>Description</b>

- 5.3 The policy, including the amendments, shall be available to members at the Upper Nicola Band office. Where the policy amendment is a change that impacts the owner, they shall be notified of the change through a separate written notice within 30 working days of policy approval.
- 5.4 Once every two years, the housing policy shall be presented at a General Band Meeting.

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- 5.5 In the event of a conflict between the current Upper Nicola Band housing policy and an earlier edition of an Upper Nicola Band housing policy, the most current Upper Nicola Band housing policy shall prevail.
- 5.6 Any matter contained herein this housing policy that conflicts with agreements not considered by this housing policy or any other Upper Nicola Band law, bylaw or policy, shall be decided individually by the band administrator with leave for an appeal under the procedures set out in the appeals section of this policy.

## **6 Roles and Responsibilities**

### **6.1 Chief and Council**

Chief and Council shall have the final decision-making authority for all housing program and services. Chief and Council is responsible to:

- a) Approve strategic plans and all budgets related to the delivery and administration of housing programs and services; and
- b) Ensure all housing programs and services are provided; and
- c) Approve all housing policies and related regulations; and
- d) Support housing policy enforcement.

### **6.2 Appeals Committee**

The appeals committee consists of the band administrator, an Elder or band councillor and a person selected by the person appealing the housing decision that is not an immediate family member. The appeals committee shall hear appeals of a housing decision as submitted by an owner according to the conditions of this housing policy. Decisions shall be rendered by a majority vote. If a member of the appeals committee is in a conflict of interest, an alternate person will be designated.

### **6.3 Housing Department**

The key responsibilities of the housing department are to:

- a) Apply and enforce the private ownership policy; and
- b) Monitor the effectiveness of housing policies and programs; and
- c) Recommend changes in policy as needed and review housing goals and priorities annually; and
- d) Prepare annual and other reports as required; and
- e) Plan and carry out community meetings on housing programs or services; and



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- f) Provide information and counselling for owners who require assistance in understanding and assuming their housing responsibilities.

6.4 Owner

The key responsibilities of the owner are to:

- a) Abide by the terms of this housing policy; and
- b) Be responsible for the general upkeep of the unit including maintenance, repairs and insurance; and
- c) Ensure that all standard utilities (heat, hydro and water) are maintained and operational at all times; and
- d) Not interfere with or unreasonably disturb a neighbouring occupant and not jeopardize the health or safety or lawful right of a neighbouring occupant or Upper Nicola Band.

## 7 Appeals

7.1 Eligibility to Make an Appeal

An appeal of a housing decision may be made by an individual who is an eligible owner of a residential unit located within Upper Nicola Band lands.

7.2 Grounds for an Appeal

An owner may appeal a decision made under this housing policy where the appeal falls under one or more of the following categories:

- a) The policy was not applied which impacted the outcome of the decision being appealed; and/or
- b) There was a lack of procedural fairness which impacted the decision being appealed (i.e. any procedural error, improper investigation, or discrimination); and/or
- c) New information has come to light rendering the original decision unreasonable in light of the new information presented; and/or
- d) The policy is unreasonable (i.e. the policy cannot be rationally supported or there is a defect in the policy which is immediate and obvious).

7.3 Submitting an Appeal

- 7.3.1 An owner who wishes to appeal a decision made under this housing policy shall submit their appeal in writing to the housing department within five (5) working days of having been advised of the decision which

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- they are appealing. The notice of appeal form is available from the housing department.
- 7.3.2 The housing department shall acknowledge receipt of the appeal to the owner in writing to the address provided in the notice within five (5) working days of receipt of the appeal and shall confirm to the owner the date of the appeal review.
- 7.3.3 The owner must make the appeal on their own behalf, an appeal by a family member or another person shall not be considered.
- 7.3.4 The housing department shall acknowledge receipt of the appeal, in writing and by phone, within five (5) working days of receipt of the appeal.
- 7.4 Review of the Appeal by the Housing Manager
- 7.4.1 The housing manager shall review the appeal form submitted by the owner to ensure that the form is complete and provides the required information.
- 7.4.2 The housing manager shall contact the owner within the same 5 working days of receipt of the appeal to discuss and attempt to resolve the issue. A record of all written correspondence, telephone calls and meetings shall be maintained on the owner file.
- 7.5 Review of the Appeal by the Band Administrator – Level 1 Review
- 7.5.1 **Review of the Appeal** - Where the issue being appealed cannot be resolved to the mutual satisfaction of the owner and the housing manager, the appeal shall be passed to the band administrator on the sixth (6) working day following receipt of the appeal. The band administrator shall review the appeal within five (5) working days of receipt from the housing manager. The housing manager shall meet with the band administrator to present the appeal documentation and shall confirm the related housing policies and the processes that were followed regarding the decision that is being appealed.
- 7.5.2 **Meeting with the Owner** - Within this same five day period, the band administrator shall arrange with the owner a date to meet to discuss the appeal and shall offer two opportunities for the meeting. The owner shall be advised that failure to participate in the meeting shall result in the appeal being denied. The band administrator shall meet with the owner to discuss the appeal and work with them to resolve the appeal. The owner must make the appeal on their own and cannot be represented by another person but they may bring another person with them to assist them in the appeal but shall do so at their own expense.

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- 7.5.3 **Considering the Appeal** - In considering the appeal the band administrator shall decide whether the decision being appealed was made according to the housing policy, without bias or favoritism and without error in interpretation. The band administrator shall confirm whether:
- a) The decision being appealed has been revised in favour of the owner;  
or
  - b) The housing policy was followed and there are no reasonable grounds for an appeal.
- 7.5.4 **Action to be Taken Following the Appeal Decision** - The following action shall be taken by the housing manager on receipt of confirmation of the appeal decision by the band administrator:
- a) The housing manager shall provide written confirmation to the owner to confirm the band administrator's decision regarding the appeal within four (4) working days of the appeal meeting; and/or
  - b) Where the band administrator has confirmed that the decision being appealed has been revised in favour of the owner and where the appeal is based on the grounds that the policy is unreasonable, the band administrator shall recommend that the housing manager make an amendment to the housing policy in the matter of the decision being appealed; and/or
  - c) Where the band administrator has confirmed that the housing policy was followed and the owner has no grounds for an appeal, no further action shall be taken on the matter of the appeal.

7.6 Review by the Appeals Committee – Level 2 Review

Where an appeal is denied after the Level 1 review, the owner has the right to appeal to the Appeals Committee.

- 7.6.1 **Resubmitting the Appeal** - The owner shall re-submit their appeal within five (5) working days of being provided a decision on their Level 1 appeal and the processes noted in 7.3 of this policy shall apply. A record of all written correspondence, telephone calls and meetings shall be maintained on the owner file.
- 7.6.2 **Notification to the Committee of the Appeal** - The housing manager shall notify the Appeals Committee and set a date for a meeting to hear the appeal. The housing manager shall provide the appeal documentation to the Appeals Committee and shall confirm the related

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housing policies and the processes that were followed regarding the decision that is being appealed.

- 7.6.3 **Review of the Appeal** - Within five (5) working days of receipt of the appeal, the Appeals Committee shall review the appeal and the findings from the Level 1 review and may meet with the band administrator or the housing manager to review the decision being appealed.
- 7.6.4 **Meeting with the Owner** - Within this same five day period, the Appeals Committee shall arrange with the owner a date to meet to discuss the appeal and shall offer two opportunities for the meeting. The owner shall be advised that failure to participate in the meeting shall result in the appeal being denied, except where failure to participate is a result of a family emergency or other extenuating circumstances as approved by the Appeals Committee. The Appeals Committee shall meet with the owner to discuss the appeal and work with them to resolve the appeal. The owner must make the appeal on their own and cannot be represented by another person but they may bring another person with them to assist them in the appeal but shall do so at their own expense.
- 7.6.5 **Considering the Appeal** - In considering the appeal, the Appeals Committee shall decide whether the decision being appealed was made according to the housing policy, without bias or favoritism and without error in interpretation of the housing policy or community bylaws. the Appeals Committee shall confirm whether:
- a) The decision being appealed has been revised in favour of the owner;
  - or
  - b) The housing policy was followed and there are no reasonable grounds for an appeal.
- 7.6.6 **Action to be Taken Following the Appeal Decision** - The following action shall be taken by the housing manager on receipt of confirmation of the appeal decision:
- a) The housing manager shall provide written confirmation to the owner to confirm the Appeals Committee's decision regarding the appeal within four (4) working days of the appeal meeting; and
  - b) Where the Appeals Committee has confirmed that the decision being appealed has been revised in favour of the owner and where the appeal is based on the grounds that the policy is unreasonable, the Appeals Committee shall recommend that the housing manager to

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- make an amendment to the housing policy in the matter of the decision being appealed; and/or
- c) Where the Appeals Committee has confirmed that the housing policy was followed and the owner has no grounds for an appeal, no further action shall be taken on the matter of the appeal; and
  - d) The decision of the Appeals Committee shall be final and no other appeal shall be heard.

## **8 Owner Responsibilities**

For privately owned units, the owner shall be solely and fully responsible for the following:

### **8.1 Unit Maintenance and Repairs**

An owner is responsible for unit maintenance and repairs to be carried out as required to maintain safe operation of components on the interior and exterior of the unit. This includes but is not limited to, repairing damaged surfaces (e.g. interior drywall, exterior siding, roofing, windows and doors), and maintaining heating, plumbing and electrical systems and fixtures and fire prevention items and, maintaining exterior stairs and walkways.

### **8.2 Property Maintenance**

An owner is responsible to maintain the housing unit and property in a state that meets the requirements of Upper Nicola Band bylaws and regulations regarding repair and maintenance of properties within Upper Nicola Band lands. This includes but is not limited to maintaining a housing unit and property to meet minimum health and safety standards so as to protect the welfare of Upper Nicola Band as relates to nuisances, unsightly property, noise and pollution and waste in or on privately owned property.

### **8.3 Utility Charges and Other Services**

The owner is responsible to pay all charges for utilities including electricity, heat, hot water, gas, propane, telephone, cable, internet and other services or any other amenities to which the owner may subscribe or install. Upper Nicola Band is not responsible for any unpaid or terminated services.

Where the owner wishes to connect to BC hydro (i.e. for private construction), the owner shall be required to contact UNB to obtain a BCR for the hydro connection. The owner shall be responsible for all costs associated with the hydro connection.

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**8.4 Water Supply and Water Systems**

- 8.4.1 An owner shall not dig or drill a well on the property for purposes of a water supply without having received prior written approval to do so from the housing department.
- 8.4.2 Where the privately owned property is connected to the UNB community water supply system, an owner is responsible for the care, use and maintenance of water supply systems from the curb to the housing unit and within the housing unit, according to UNB requirements for the water supply systems.
- 8.4.3 An owner is responsible to pay the cost and arrange for repairs to water supply systems from the curb to the housing unit and within the housing unit.

**8.5 Septic System**

- 8.5.1 Where the property includes a septic system, an owner is responsible for the care, use and maintenance of septic systems, including septic system pump-out, according to the septic system's manufacturer's instructions.
- 8.5.2 An owner is responsible to pay the cost and arrange for repairs to or replacement of the septic system including the septic tank and septic system's field (absorption) bed.

**8.6 Garbage and Waste Disposal**

The owner is responsible for garbage and waste disposal. Household waste is to be securely contained and closed within appropriate garbage containers and is to be placed at the end of the driveway for pick-up according to the UNB garbage collection schedule.

**8.7 Snow and Ice Removal**

The owner is responsible for removal of snow and ice from driveways, walkways and other areas on the property to ensure safe access to the unit and property for Upper Nicola Band and other service providers and for emergency vehicles. Some support for snow and ice removal may be provided to seniors or disabled persons by other Upper Nicola Band departments where funding permits.

**8.8 Insurance**

The owner is responsible to obtain and pay the cost of any and all insurance on the unit (e.g. building insurance, third party liability and contents insurance).

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8.9 Access to the Unit

An owner is responsible to ensure reasonable road access to the unit is available at all times for provision of services (e.g. garbage collection) and for emergency vehicles.

## **9 Upper Nicola Band (UNB) Responsibilities**

9.1 Water Supply and Water Systems

UNB shall maintain the community water supply system and shall be responsible for water supply systems outside of the owner's lot to the water supply system.

9.2 Septic System – Subdivision Properties

UNB shall maintain the lift station and drainfield for the community septic systems in the subdivision where applicable.

9.3 Garbage Collection

UNB shall provide household garbage collection according to the collection schedule. Homeowners shall be encouraged to use the UNB transfer station for removal of additional garbage and recycled material.

9.4 Snow Removal

UNB shall provide snow removal services for main roadways only.

## **10 Disposal of a Condemned Unit**

Where a unit has been condemned and confirmed to be no longer fit for habitation or is confirmed to pose an environmental hazard to the community, as supported by a written report from a certified inspector/Environmental Health Officer (Public Health Agency of Canada), the following applies:

- 10.1 The housing department shall provide written notice to the owner, within 10 days of receiving the inspector's report, confirming the results of the inspection report. The notice, which shall include a copy of the inspection report, shall confirm that:

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- a) The unit shall be demolished within 90 days of the notice being served unless an additional period is granted by the housing department in consideration of weather conditions; and
  - b) Demolition and removal of debris, and removal of any water and/or waste supply and disposal systems shall conform to the applicable building code, UNB by-laws specifying building or other standards, and any other by-laws, codes and regulations applicable to the project (i.e. BC Building Code related to septic systems); and
  - c) The owner is responsible for all costs associated with the demolition and removal of debris including permits and notices.
- 10.2 The notice shall be dated and signed by an authorized representative of UNB and shall be delivered to the owner either by:
- a) Registered mail to the mailing address noted on the owner's property account file. If sent by registered or certified mail the notice is considered to have been delivered on the fifth day after the date of mailing (the 14 day notice period shall commence on the sixth day after mailing), The first day of the notice period is excluded and the last day is included in the 14-day count; or
  - b) By hand to an adult person living in the unit, with a third-party as witness to the delivery of the notice. The first day of the notice period is excluded and the last day is included in the 14-day count.
- 10.3 Failure by the owner to complete the demolition and removal of debris within the period required by the housing department shall result in the housing department taking the necessary action to demolish the unit and remove and dispose of the debris. UNB shall pay these costs and shall issue an invoice for these costs by registered mail to the owner. The owner shall be held responsible for demolition costs and any other expenses that UNB has incurred as a result of disposal of a condemned unit.
- 10.4 Where the owner fails to pay the demolition costs and any other expenses incurred as a result of disposal of a condemned unit, UNB shall enter the costs as an accounts receivable against the owner.

## **11 Renting a Privately Owned Home**

- 11.1 The owner may, at their sole discretion, identify a tenant(s) to rent their unit. A tenant occupying a unit within UNB lands must adhere to community by-laws and expectations.



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- 11.2 UNB shall have no authority over the rental terms established by an individual owner who rents their unit and UNB shall not intervene in disputes between an owner and a tenant regarding terms of the tenancy.

## **12 Sale of the Unit by the Owner**

The owner has the right to sell the unit under the following conditions:

- a) The purchaser shall be a registered member of UNB; and
- b) The sale is in accordance with the UNB lands policies.