

AKWESASNE RESIDENCY LAW AS PROPOSED AMENDMENTS

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AKWESASNE RESIDENCY LAW

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AKWESASNE RESIDENCY LAW

PURPOSE

The following Law represents one of the measures adopted by the Mohawk community and the Mohawk Council of Akwesasne to control the residency of Non-members within the Territory of Akwesasne in order to preserve its culture, traditions and values. It is recognized that limited resources are available to provide services to persons who reside in the Territory of Akwesasne and that priority must be given to members of Akwesasne. The community wishes that only those who are registered members of Akwesasne may have the right to reside in the Territory. Members who are subject to a Banishment Order shall not have a right of residency while the Banishment Order is in effect. The community, however, is prepared to extend the privilege of temporary residency to Non-members, under certain conditions set out in this Law.

PART I GENERAL PROVISIONS

1 TITLE

1.1 This Law shall be called the AKWESASNE RESIDENCY LAW.

2 INTERPRETATION

2.1 In this Law:

"Akwesasne Membership Code" is the community Law that exercises the inherent right of the Mohawk Community in Akwesasne to determine its own membership;

"Appeal Tribunal" is the Akwesasne Appeal Tribunal, the body of trained community members established by Mohawk Council, that has responsibility to hear appeals under this Law;

"Applicant" means a Non-member who is applying for residency under this Law;

"Authority" means an educational, health, social, religious, recreational or other organization or facility that has been authorized by Council to issue Occupancy Licences;

"Child" means a person under the age of eighteen (18) years;

"Council" means the Mohawk Council of Akwesasne;

"Banishment Order" means a Mohawk Court order of expulsion from the community of Akwesasne, made pursuant to the Akwesasne Banishment Law;

"Dependent Adult" means a person of native ancestry, eighteen (18) years of age or older, who, as a result of mental or physical disability, is unable to care for themselves;

"Designated Area" means those areas on the Territory of Akwesasne identified by a Resolution of Council as being available for residency through a Lease Agreement;

"District" means any one of the following Territorial Divisions: Cornwall Island (Kawehnoke) and any island within the Territory of Akwesasne in Ontario; or St. Regis Village (Kanatakon) and St. Regis Island (Enskatsitkahwenote); or Chenail/Snye (Tsisnahne) and any other island within the Territory of Akwesasne in Quebec, save and except St. Regis Island.

"Eligible Voter" means a person entitled to vote pursuant to the provisions of the Akwesasne Election and Custom

Voting Regulation;

"Holder" means the person in possession of a Residency Permit;

"Lease Agreement" means a written contract pursuant to which a Non-member claims a right to occupy land in a designated area and includes subleases or assignment of lease agreement between Council, as Landlord or Landlord's agent;

"Legislative Commission" means the persons appointed by Mohawk Council Resolution with responsibility to work on the development of Codes, Laws, and Regulation for Akwesasne;

"Member" means a person who is registered or immediately entitled to be registered as a member pursuant to the Akwesasne Membership Code (does not include Probationary members);

"Membership Board" is a body of community Members established pursuant to the Akwesasne Membership Code and for the purposes of this Law must have a quorum in attendance to act;

"Membership Officer" means that person designated by a Resolution of Council to receive applications for Residency Permits;

"Non-member" means a person who is not a member;

"Notice of Denial" means that written notice to an applicant indicating that their application for residency under this Law has been denied;

"Notice of Revocation" means that written notice to a Non-member resident indicating that their privilege to reside in Akwesasne has been revoked;

"Occupancy Licence" means restricted permission from an Authority to reside on the Territory of Akwesasne;

"Onkwehonwe" means, for the purposes of this Law, a person of native ancestry whose natural mother or father is/was registered or is immediately eligible to be registered, on the Akwesasne or any other First Nations Membership list, which includes Tribal Enrolment list;

"Permission to Lease Permit" means that written permit, authorizing an Applicant to negotiate a Lease, Sub-Lease, or Assignment of Lease Agreement;

"Petitioner" means any Akwesasne educational, religious, health, social, recreational or other organization or facility wishing to become an Authority under this Law;

"Reside" means to be a Resident;

"Residency Permit" means that written permit given by the Membership Board authorizing an Applicant to reside on the Territory of Akwesasne;

"Resident" means a person who has the legal right or privilege to live permanently, temporarily or occasionally on the Territory of Akwesasne;

"Territorial Clerk" means that person designated by a Resolution of Council to receive applications and approve applications for Permission to Lease Permits; and

"Territory of Akwesasne" means that geographic area over which the Mohawk Council of Akwesasne has jurisdiction.

3 GENERAL POLICY

3.1 a) Every member, who is not subject to a Banishment Order, may have the right to reside on the Territory of Akwesasne.

b) A Child or Dependent Adult in the legal custody or guardianship of a member who resides on the Territory of Akwesasne, has the right to reside with that member.

3.2. Non-members cannot reside on the Territory of Akwesasne for more than thirteen (13) days in any thirty (30) consecutive day period unless they:

have a Residency Permit, or are a Tenant under a Lease Agreement; or have an Occupancy Licence; or have a right of residency under Section 3.1(b).

3.3. For the purposes of Section 3.2, residing in the community includes a temporary or occasional basis. "A temporary or occasional basis" is one that has a regular quality to it even though it may amount to less than 13 days in a 30-day period, if it includes:

a) renting living accommodations; and/or
b) leaving personal items at the place of residency.

A Non-member intending that a child in their legal custody or guardianship will reside with them, shall include the child in their application for residency.

Where residency for a child is included in an application, the requirements of disclosure of a criminal record or criminal offence and the criteria applied by the Membership Board, Council or Authority, shall also be applied to the child in considering the application.

Any decision, Resolution or order made in relation to an Applicant or person having a Permit, Lease Agreement or Occupancy Licence shall apply to a child included in the application, and any notices or documents to be served on the child shall be deemed served if served on the Applicant or Permit, Lease or Occupancy Licence holder in accordance with the provisions of this Law.

3.7 Any Resident Non-member, who is Onkwehonwe may benefit from educational or social services offered in the Territory of Akwesasne, where funding policies so authorize and funds are available.

3.8 This Law is subject to the provisions in the Akwesasne Membership Code and in the case of a conflict, the provisions in the Akwesasne Membership Code shall prevail.

3.9 The Akwesasne Residency Laws #89-01 and #1997/98-60, and previous Regulations and Council Resolutions with respect to residency on the Territory of Akwesasne, are repealed by this Law.

3.10 Any person, while on the Territory of Akwesasne, must obey the Laws and Regulations that govern it and is required to respect the traditions of the community.

PART II RESIDENCY PERMIT