

#### 4 APPLICATIONS

Any Non-member wishing to reside on the Territory of Akwesasne must submit a completed application form for a Residency Permit, to the Membership Officer;

Section 4.1 does not apply to any non-member who wishes to reside on the Territory of Akwesasne, pursuant to provisions of Part III (Lease Agreements) or Part V (Occupancy Licences).

All applicants must disclose on the application for a Residency Permit, whether or not they have ever been convicted of a criminal offence and, if so, they shall specify the offence in question.

Any Eligible Voter may apply to the Membership Officer for a Residency Permit, on behalf of a Non-member who is mentally and/or physically unable to apply personally.

All first-time applicants must sign a Consent Authorizing Disclosure of Criminal Record Information and must pay any required processing fee.

The Membership Board shall have the discretion to request a further Consent Authorizing Disclosure of Criminal Record Information for an applicant's subsequent application for a further Residency Permit.

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##### THE VERIFICATION OF RESIDENCY PERMIT APPLICATION

5.1 Before the Membership Board considers an application for a Residency Permit, the Membership Officer shall verify the contents of the application.

5.2 The Membership Officer shall provide a Report to the Membership Board of any information obtained in the verification of the contents of the application.

The report shall be provided to the Membership Board prior to the Hearing.

#### 6

##### PUBLIC NOTICE OF APPLICATION

6.1 The Membership Officer shall place a notice of any application for a Residency Permit in at least one community newspaper by providing:

the name of the Applicant, children included in the application and other information to identify the Applicant; and the deadline date to receive requests to make representations before the Membership Board.

6.2 The notice in section 6.1 must be given at least five (5) days prior to the deadline date, in order to give individuals the opportunity to advise the Membership Officer that they wish to make representations to the Membership Board.

#### 7

##### HEARING ON APPLICATIONS FOR RESIDENCY PERMIT

The Membership Board shall conduct a Hearing to consider the application for a Residency Permit.

7.2 The Membership Officer shall inform the Applicant and any persons who have indicated the desire to make representations to the Membership Board of the date, place and time for the Hearing.

7.3 The Hearing shall not be open to the public unless the Membership Board determines that it is in the community's interest to have a public hearing and that holding a public hearing will not compromise confidentiality nor prejudice the ability of any party to make representations.

7.4 If the Applicant is unavailable for the Hearing, the Applicant must give a valid reason within twenty-four (24) hours prior to the hearing. The Membership Board shall then decide whether to re-schedule the Hearing.

If a presenter is unable to attend the Hearing and provides a valid reason to the Membership Board at least twenty-four (24) hours prior to the Hearing date, the Membership Board may re-schedule the Hearing.

A Hearing may take place in the absence of the Applicant where: the Applicant, fails to attend without providing a valid reason for their absence; or the applicant declines to attend the Hearing.

7.7 The Applicant and any individuals recognized by the Membership Board have a right to make representations to the Membership Board in relation to the application.

7.8 The Applicant has the right to question other persons making representations to the Membership Board concerning the application.

7.9 If the Membership Board deems it appropriate, it may keep the identity of any individual or witness confidential, provided that such confidentiality does not unduly prejudice the Applicant.

Any person making representations at the Hearing shall represent only themselves, provided that a person making an application on behalf of a Non-member who is mentally and/or physically unable to attend the Hearing, shall have the right to make representations on behalf of the Non-member who is mentally or physically unable to attend the Hearing.

The Membership Board may question any person making presentations at the Hearing.

Evidence at a Hearing shall be given under oath.

The Membership Board may adjourn any Hearing in order to make a decision. The Hearing shall be recorded.

#### 8

##### RETAINING THE RECORD OF HEARING

8.1 The recording of the Applicant's Hearing shall be kept with the application until the appeal period for the Board's decision has expired or the expiration date of the Residency Permit, whichever is later.

#### 9 CRITERIA CONSIDERED

9.1 In considering an application for a Residency Permit, the Membership Board shall take into consideration each of the following:

- the principal motive for the application;
- whether the Applicant is of good moral character;
- whether the Applicant is willing to obey community laws;
- whether the Applicant is willing to uphold community standards of conduct;
- whether the Applicant is Onkwehonwe (as defined in the Law);
- whether the Applicant has family ties in the community;
- whether the Applicant has been of good conduct in the community;
- whether the Applicant was of good conduct in his/her previous community; the means by which the Applicant intends to support themselves and their dependents;
- whether there are adequate housing and

services available on the Territory to ensure that the Applicant will have suitable residence;

whether the Applicant has a criminal record and the offence is described in the record;

whether the applicant has ever been convicted of a criminal offence and, if so, the nature of the offence; and any other criteria that the Membership Board deems relevant.

#### 10

##### MEMBERSHIP BOARD DECISION ON APPLICATION FOR RESIDENCY PERMIT

10.1 After consideration of all the documents and presentations relevant to the application, the Membership Board shall: approve the application and issue a Residency Permit with terms that it specifies; or

b) deny the application and issue a Notice of Denial with reasons.

10.2 The successful Applicant shall be issued a Residency Permit for a specific period that does not exceed twelve (12) months.

#### 11 NOTICE OF DECISION

11.1 An Applicant who is granted a Residency Permit shall be informed in person or by registered mail of the Membership Board's decision and shall be provided with a copy of the Residency Permit.

11.2 An Applicant who is denied a Residency Permit, shall be informed in person or by Registered Mail, by being provided with a Notice of Denial with reasons.

The Membership Board shall provide a copy of any decision made regarding the Applicant to the Akwesasne Mohawk Police Service, the Mohawk Council of Akwesasne and any other departments, institutions or enforcement agencies that the Membership Board deems appropriate.

Any decision of the Membership Board, with respect to an application for a Residency Permit, shall be published in at least one community newspaper and posted in a public place in each District.

##### APPEALS FROM DECISIONS ON APPLICATION FOR RESIDENCY PERMITS

The Applicant or any Eligible Voter may appeal the Membership Board's decision regarding the denial, approval or conditions of an application for a Residency Permit, to the Appeal Tribunal.

The appeal shall be presented: in the case of an appeal by the Applicant, within five (5) working days of service of the decision; and in the case of an appeal by an Eligible Voter, within five (5) working days of publication of the decision.

#### 13

##### DENIED APPLICATIONS FOR RESIDENCY PERMITS

Unless a decision of the Membership Board is under appeal to the Appeal Tribunal, an Applicant who has been denied a Residency Permit must leave the Territory of Akwesasne within forty-eight (48) hours after receiving the Notice of Denial.

Where a decision is under appeal, an appellant may remain in the Territory of Akwesasne until the Appeal Tribunal makes its decision.

The period provided for in Section 13.1 and 13.2 may be extended to not more than thirteen (13) days

upon application to the Membership Board.

If the Appeal Tribunal determines that there are no grounds for the appeal or, upon hearing the appeal, confirms the Notice of Denial, then the unsuccessful Applicant must leave the Territory of Akwesasne within forty-eight (48) hours after receiving the decision of the Appeal Tribunal or such further time as the Appeal Tribunal directs.

Where the Appeal Tribunal has overruled the approval of a Residency Permit, it shall instruct the Holder to surrender the Residency Permit to the Membership Officer immediately.

Any Non-member who remains in the Territory of Akwesasne beyond the period provided in this section, by the Membership Board or Appeal Tribunal, is liable to prosecution in Mohawk Court for violation of the Akwesasne Residency Law.

#### 14

##### RENEWAL OF RESIDENCY PERMIT

14.1 Any Non-member wishing to continue residing on the Territory of Akwesasne beyond the expiry date of their current Residency Permit, must re-apply for a Residency Permit.

#### 15

##### ANNUAL RESIDENCY PERMIT REPORT TO COUNCIL

15.1 On or before March 31 in each year, the Membership Board shall provide the Mohawk Council of Akwesasne with a written report listing the identities of all Applicants who have been denied or granted Residency Permits during the past twelve (12) months.

##### PART III LEASE AGREEMENTS

#### 16 PERMISSION TO LEASE APPLICATION

Any Non-member's residency on the Territory of Akwesasne at the time this Law comes into force, pursuant to a Lease Agreement entered with Council or a legal and valid Lease Agreement entered into with any other person, shall be deemed legally non-conforming and shall be permitted to continue until the end of the Lease.

Any Non-member wishing to enter into a Lease Agreement within a Designated Area must first submit a completed application form to the Territorial Clerk for a Permission to Lease Permit.

All Applicants must disclose on the Application for Permission to Lease whether or not they have ever been convicted of a criminal offence and, if so, they shall specify the nature of the offence.

All first-time Applicants must sign a Consent Authorizing Disclosure of Criminal Record Information and personal credit reference checks, and they must pay the required processing fee.

The Territorial Clerk shall have the discretion to determine whether a further Consent to Disclosure of Criminal Record Information and personal credit check are required for any subsequent application for Permission to Lease.

Any person may apply for a Permission to Lease Permit on behalf of a person who is mentally and/or physically unable to apply personally.

16.7 Council shall not confirm by Resolution any Lease Agreement with any Non-member who has not been issued a Permission to Lease Permit.