

16.8 Any Non-member whose Lease Agreement has expired shall re-apply for a Permission to Lease Permit.

17 PROCEDURE ON PERMISSION TO LEASE PERMIT APPLICATION

17.1 The Territorial Clerk shall verify the contents of the application for a Permission to Lease Permit.

17.2 The Territorial Clerk shall prepare a report of any information obtained in the verification of the contents of the application.

17.3 In considering the application for Permission to Lease, the Territorial Clerk and Council shall consider the following:

- a) whether the Applicant is of good moral character;
 - b) whether the Applicant had previous Lease Agreements within the Territory of Akwesasne;
 - c) whether there is adequate designated area available to accommodate the Applicant;
 - d) whether the Applicant has a good credit rating;
- whether the Applicant has a criminal record and the offence is disclosed in the record;
- whether the Applicant has ever been convicted of a criminal offence and, if so, the nature of the offence; and
- g) any other criteria that the Council deems relevant.

17.4 After verification of the contents and information relevant to the application, the Territorial Clerk shall have the authority to:

issue a non-transferable Permission to Lease Permit to enter into Lease Agreement negotiation with Council; or forward the application and report to Council for their consideration.

18 CONSIDERATION BY COUNCIL ON APPLICATIONS FOR PERMISSION TO LEASE

If the application is referred to Council pursuant to Section 17.4 (b), Council may hold a Hearing with the Applicant prior to making its decision.

Where Council decides to hold a Hearing, they shall notify the Applicant of the date, place and time for the Hearing.

The Hearing shall not be open to the public, unless Council 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 the Applicant to make representations.

The Hearings shall be recorded.

The Applicant may make representations to Council at the Hearing concerning the application.

Where the Applicant is mentally and/or physically unable to make representations on their behalf, another person may make representations on behalf of the Applicant to the Council.

Council, at the Hearing, may question the Applicant or person making representations on their behalf.

Evidence at a Hearing shall be given under oath.

If the Applicant is unavailable for the Hearing, the Applicant must have a valid reason. Council will then determine whether to re-schedule the Hearing.

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

A Hearing may take place in 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.

Council may adjourn the Hearing in order to make a decision.

The record of the Applicant's Hearing shall be kept with the application until the appeal period for Council's decision has expired or the expiration date of the Permission to Lease Permit, whichever is later.

19 DECISION OF COUNCIL

19.1 After consideration of contents of the application and any evidence presented at a Hearing, Council shall: issue a non-transferable Permission to Lease Permit to enter into Lease Agreement negotiations with Council; or deny the application and issue a Notice of Denial with reasons.

20 NOTICE OF DECISION AND APPEAL

20.1 Sections 11, 12 and 13 shall apply to applications for Permission to Lease Permit, it being understood that references to "Board" and "Residency Permit" mean "Council" and "Permission to Lease Permit" and the documents, notices and forms referred to in these sections are modified consistent with the provisions of this Law dealing with applications for Permission to Lease Permits.

PART IV AUTHORITY

21

PETITION TO COUNCIL FOR AUTHORITY TO ISSUE OCCUPANCY LICENCES

21.1 Any educational, health, social, religious, recreational or other organization or facility wishing to provide shelter to Non-members for purposes consistent with the services or programs they provide, must petition Council in writing for a Resolution recognizing them as an Authority with power to issue Occupancy Licences.

21.2 Any Non-members resident at Akwesasne in an educational, health, religious, social, recreational or other recognized facility or organization at Akwesasne at the time this Law is enacted, shall be deemed to have a valid Occupancy Licence.

21.3 Mohawk Council shall ensure that the community is notified of any petition by placing a notice in at least one community newspaper providing the identity of the petitioner and the deadline to receive representations concerning the application.

21.4 Where a Petitioner intends to provide accommodations or shelter to Non-members in a facility it manages or operates, before approving a petition, Council shall be satisfied that:

the services offered to Members of the community shall not be significantly affected by issuing Occupancy Licences to Non-members;

the Petitioner is a Board or Committee that has representatives who are Akwesasne Members or the Petitioner is answerable to such a Board or Committee;

there is money available to accommodate the Petitioner's program;

the Petitioner has written policies or rules determining who may live in their facility; and

any other consideration in the community's best interest.

Where the Petitioner intends to provide accommodations for Non-members in a private home or a facility other than one managed or operated by the Petitioner, before approving a petition, Council shall be satisfied that:

the Petitioner has a system to determine whether financial resources are available for the Non-member's needs, including but not limited to shelter, food, clothing, medical, educational, insurance and other expenses; the services offered to Members of the community would not be significantly affected by issuing Occupancy Licences to the Non-members; the Petitioner has money available to accommodate the program; the Petitioner has written policies or rules for persons eligible to participate in their program; and any other consideration in the community's best interest.

21.6 Prior to reaching a decision, Council may meet with the Petitioner to ask questions or receive clarification with respect to the petition or matters related to the petition.

22 DECISION OF COUNCIL

22.1 After considering all requirements and representation, the Mohawk Council shall:

a) approve the petition with or without terms or conditions and pass a Resolution recognizing the Petitioner as an Authority with power to issue Occupancy Licences; or

b) deny the petition with reasons.

22.2 Any Mohawk Council Resolution that recognizes a Petitioner as an Authority with power to issue Occupancy Licences, must contain:

a) any terms or conditions established pursuant to sub-section 22.1(a);

b) an expiry date for such Authority, that does not exceed thirty-six (36) months; and

c) information that the services offered to Members of the community shall not be affected by offering shelter and care to Non-members.

22.3 The power of an Authority to issue Occupancy Licences terminates on the expiry date set out in the Resolution or upon the revocation by Council Resolution under this Part of the recognition granted to the Authority.

NOTICE OF DECISION AND APPEAL

23.1 Sections 11 and 12 shall apply to Petitions to Council to be recognized as an Authority, it being understood that references to "Applicant," "Board" and "Residency Permit" mean "Petitioner," "Council" and "Resolution" and the documents, notices and forms referred to in these sections are modified consistent with the provisions of this Law dealing with petitions to Council for recognition as an Authority.

RENEWAL OF RESOLUTION RECOGNIZING AN AUTHORITY

An Authority wishing to continue issuing Occupancy Licences after the expiry date set out in the Resolution recognizing it as an Authority, must re-apply to Council.

The provisions of sections 21, 22 and 23 shall apply to applications for renewal of recognition as an Authority.

REVOCAION OF AN AUTHORITY

A Resolution recognizing a Petitioner as an Authority may be revoked by Council if:

the Authority no longer satisfies the criteria set out in section 21; or

the Authority has failed to comply with the terms or conditions set out in the Resolution under which it was recognized as an Authority.

The recognition of an organization as an Authority may be reconsidered by Council's own initiative, or upon a written request from an Eligible Voter for Council to hold a Hearing to revoke the Authority's power to issue Occupancy Licences. The written request shall identify the criteria or conditions that the Authority no longer satisfies.

Before deciding whether to conduct a revocation Hearing, Council may interview the person making the request ("Complainant") to clarify the contents of the request.

If Council determines that there are not sufficient grounds to proceed with a revocation Hearing, it shall send a written notice of its decision with reasons to the Complainant.

If Council determines that there are sufficient grounds to proceed with a revocation Hearing, it shall notify the Complainant and the Authority of the date, time and place for the Hearing.

All appropriate rules governing the Hearing on applications for Residency Permits in sections 6, 7 and 8, shall apply to the revocation Hearing, it being understood that the "Applicant" is now the "Authority," and the "Membership Board" is the "Council," as the case may be, and the documents, notices and forms referred to in those sections are modified consistent with the provisions of this Law as related to revocation of an Authority's recognition.

After consideration of the requests, submissions and documents presented at the Hearing, Council shall:

dismiss the revocation request; or

revoke the recognition of the Authority; or

add or modify any condition to the Resolution recognizing the Authority.

Council shall provide the Authority and the Complainant with a copy of its decision.

Any decision of Council with respect to revocation of the recognition of an Authority shall be published in at least one community newspaper and posted in a public place in each District.

All Occupancy Licences issued by the Authority, as of the date of any Resolution revoking recognition of the Authority, shall remain valid until their expiry date, however, an Authority whose recognition has been revoked shall not, after the effective date of the Resolution, have power to issue new Occupancy Licences.

Any appeals from a decision of Council regarding the revocation of an Authority's recognition or the change in the conditions of their authorization, shall be made to the Appeal Tribunal.

PART V OCCUPANCY LICENCES

26 APPLICATION FOR OCCUPANCY LICENCE

Any Non-member wishing to reside on the Territory of Akwesasne under an Occupancy Licence must apply to the Authority.

Any person may apply to the Authority for an Occupancy Licence, on behalf of a Non-member who is mentally and/or physically unable to apply personally.

Before the Authority considers any Non-member's application for an Occupancy Licence, the Authority shall verify the contents of the application.