

**LAW No. 2007-01  
OF THE ALGONQUINS OF PIKWÀKANAGÀN  
A LAW GOVERNING THE RESIDENCE OF MEMBERS AND  
OTHER PERSONS WITHIN PIKWÀKANAGÀN**

WHEREAS the Council of the Algonquins of  
Pikwàkanagàn desires to make a law governing the  
residence of members and other persons in  
Pikwàkanagàn;

AND WHEREAS the Council believes it is the Algonquins  
inherent right to determine residency with their community;

AND WHEREAS the Council of the Algonquins of  
Pikwàkanagàn is empowered to make such law pursuant  
to Sections 81(a)(p.1), (q) and (r) of the Indian Act;

AND WHEREAS it is considered necessary for the health  
and welfare of the Algonquins of Pikwàkanagàn to  
regulate the residence of members and other persons in  
Pikwàkanagàn;

AND WHEREAS, consultation has been completed;

NOW THEREFORE, the Council of the Algonquins of  
Pikwàkanagàn, having duly enacted a new by-law on and  
being a by-law to regulate the residence of members or  
other persons in Pikwàkanagàn, do hereby repeal all by-  
laws regulating residence of members or other persons in  
Pikwàkanagàn in their entirety and replace it with the  
following law:

**1. SHORT TITLE**

This law may be cited as the "Residency Law".

**2. INTERPRETATION:**

In this Law

**"Applicant"** means a person who has submitted  
an application for permission to be a resident of  
Pikwàkanagàn in accordance with Section 3.

**"Appeal Board"** means a group of members,  
appointed by Council Resolution, to sit on and  
make decision and hear appeals and objections  
on all Administrative Laws.

**"Child"** includes a child born in or out of wedlock  
and a legally adopted child.

**"Council"** means the Council, as defined in  
Algonquins of Pikwàkanagàn Custom Election  
Code.

**"Dependant"** means a person under the age of  
18 years who has not withdrawn from, or a  
person 18 years of age or older who is unable by  
reason of illness or disability to withdraw from,  
the care and control of his/her parents or his/her  
legal guardian.

**"Dwelling"** means any house, apartment, mobile  
home, or a room located herein, or any similar  
lodging suitable for habitation or being inhabited.

**"Member of the Algonquins of Pikwàkanagàn"**  
means a person whose name appears on the  
Algonquins of Pikwàkanagàn Membership  
Register who is entitled to have his name appear  
on the Algonquins of Pikwàkanagàn Membership  
Register pursuant to the Membership Code of the  
Algonquins of Pikwàkanagàn.

**"Officer"** means any police officer, police  
constable or other person charged with the duty  
to preserve and maintain the public peace, and  
any law enforcement officer or other person  
appointed by the Council for the purpose of  
maintaining law and order in Pikwàkanagàn.

**"Pikwàkanagàn"** means the land reserved for  
the use and benefit of the Algonquins of  
Pikwàkanagàn, Indian Reserve #39.

**"Principle Residence"** means the place at which  
a person resides on a more permanent basis.

**"Residency"** means to live in a dwelling, other  
than as a visitor within Pikwàkanagàn.

**"Residency Right"** means the right to reside in  
Pikwàkanagàn under the Law

**"Spouse"** means a person who is married to, or  
who co-habits with a member in a conjugal  
relationship outside of marriage, and provides  
proof of such.

In this Law, reference to the masculine includes the feminine, and references to the singular include the plural.

### 3. ENTITLEMENT TO RESIDE IN PIKWÀKANAGÀN

3.1 No person shall reside in lands reserved to the Algonquins of Pikwàkanagàn except

- a) a person who is a member of the Algonquins of Pikwàkanagàn;
- b) a person to whom permission to reside has been granted pursuant to this by-law, and who has not, since permission has been granted, taken up ordinary residency outside of Pikwàkanagàn;
- c) a person who is a legal dependent of and who resides with a person mentioned in subsections a and b of this section;

3.2 No person shall be eligible for permission to reside in Pikwàkanagàn except:

- a) a spouse of a member of the Algonquins of Pikwàkanagàn, or
- b) a person, who would benefit the community through the person's employment to assist in the revival and promotion of our Algonquin language, culture, society and community values; or
- c) a spouse of a deceased member of the Algonquins of Pikwàkanagàn who has lawfully resided in Pikwàkanagàn with that member immediately prior to the member's death; and has permission from the CP Holder to remain in the house; and
- d) has the permission of the Registrar pursuant to section 6, or of the Council pursuant to section 11, to be a resident in Pikwàkanagàn

3.3 A person will be deemed to be residing in Pikwàkanagàn if they live in a dwelling in Pikwàkanagàn, receives mail at this dwelling and does not have a residence anywhere else. This presumption may be rebutted by presenting proof to the Registrar appointed under this law that the person is only visiting Pikwàkanagàn, however,

3.4 whether or not this presumption is rebutted is the sole and unappealable discretion of the Registrar.

### 4. REGISTRAR OF RESIDENTS

4.1 The Registrar shall be appointed by Council by resolution for a term specified in the resolution, and may be removed at any time during this term by Council resolution.

4.2 The Registrar shall not be a member of the Council or the Appeal Board.

4.3 The Registrar shall receive applications and make decisions in accordance with Sections 3, 6 and precedent setting decisions, on behalf of Council.

4.4 The Registrar shall, as necessary and from time to time, set and/or amend the application forms for use under this law.

4.5 The Registrar of Residents shall maintain a Residents List on which is recorded

- a) the name of each resident;
- b) whether or not the person is a member of the Algonquins of Pikwàkanagàn;
- c) the date on which the person has been granted permission to reside in Pikwàkanagàn;
- d) the date the person moved into Pikwàkanagàn;
- e) whether the applicant plans on residing in Pikwàkanagàn on a permanent basis or for a defined period.

### 5. APPLICATION

5.1 Any person, who wishes to reside in Pikwàkanagàn, must apply in writing, by completing the "Application for Residency" form and submitting it to the Registrar. An Application must be completed to extend any defined period for which permission was previously granted to be a resident of Pikwàkanagàn.

- 5.2 The completed form shall be filed with the Registrar of Residents and shall include:
- a) the name, mailing address, date of birth, marital status, membership of the applicant;
  - b) excepting legal dependents, each person requesting to reside in Pikwàkanagàn must complete an application;
  - c) if the applicant proposes to reside in Pikwàkanagàn for a limited time, the approximate duration of the proposed residence;
  - d) the location at which the applicant proposes to reside;
  - e) the name of the applicant's spouse, if any;
  - f) the names of the applicant's dependent children, if any; and
  - g) any additional information the applicant wishes to provide relating to the considerations listed in subsection 6.2.
  - h) the applicant's and their spouse, if applicable, signatures;
  - i) if a non-member, a Canadian Police Information Check or a Police check from the country that they are a citizen;
  - j) the applicant's means of support
  - k) any additional information the applicant wishes to provide for consideration.

5.3 Incomplete applications forms shall not be accepted.

#### 4. DECISION

6.1 Within thirty (30) days after the filing of a properly completed application, the Registrar shall make a decision with respect to the application.

6.2 In determining whether an application for permission to be a resident of Pikwàkanagàn should be granted, the Registrar shall take into consideration each of the following:

- a) whether the applicant has arranged for a place to reside in Pikwàkanagàn;
- b) the availability within Pikwàkanagàn of adequate housing, land and services;

- c) whether the applicant's residing in Pikwàkanagàn would be compatible with the culture, society and community and welfare of the members residing in Pikwàkanagàn;
- d) whether the applicant is or will be employed in Pikwàkanagàn;
- e) if the applicant has a criminal record and the nature of the crime;
- f) and such further and other criteria as are in the best interests of the Algonquins of Pikwàkanagàn.

6.3 Where the applicant is a member of the Algonquins of Pikwàkanagàn, the Registrar shall consider only the criteria enumerated in Section 6.2 a) and b).

6.4 Within ten (10) days after the decision, the Registrar shall dispose of the application by

- a) granting the applicant permission to be a resident of Pikwàkanagàn for an indefinite period until such time as the applicant ceases to reside in Pikwàkanagàn, subject to Section 9;
- b) granting the applicant permission to be a resident of Pikwàkanagàn for a defined period;
- c) extending any defined period for which permission was previously granted to the person by the Council or by the Registrar to be a resident of Pikwàkanagàn;
- d) refusing the application;
- e) referring the application to the Appeal Board for a decision

And shall give written notice of his decision to the applicant, incorporating reason in support of his decision.

6.5 Once a month, the Registrar shall post a List of Residents in the Administration Office.

6.6 Any member applicant whose application is refused under this section may appeal to the Board of Appeal pursuant to Section 11.

**7. REAPPLICATION**

7.1 Where an application made under Section 5 is refused pursuant to the provisions of Section 6 the Registrar is not required to consider any further application by that person for a period of one (1) year from the date of the refusal, unless the applicant can show that there has been a material change of circumstance.

**8. ENFORCEMENT**

8.1 An officer may order any person who is residing in Pikwàkanagàn who does not have permission, to cease to reside in Pikwàkanagàn or cease to operate a business in Pikwàkanagàn.

8.2 Where a person who has been ordered under subsection 8.1 to cease to reside in Pikwàkanagàn fails or refuses to do so within thirty (30) days after the order is made under subsection 8.1, an officer may issue a further order prohibiting the person from being on or re-entering Pikwàkanagàn.

8.3 Any person who fails or refuses to comply with an order made under subsection 8.2 commits an offence.

8.4 Any person who assists a person to continue to reside in Pikwàkanagàn contrary to the order of an officer acting under this law, provided that the person providing the assistance knew, or ought to have known, of the order prior to providing such assistance, commits an offence.

8.5 Any person or spouse of a member residing in Pikwàkanagàn without permission will not receive any type of benefit until the member and the member's spouse has obtained permission to reside in Pikwàkanagàn.

**9. REVOCATION OF NON-MEMBER PERMISSION TO RESIDE**

9.1 When a member advises the Registrar that their relationship to a non-member has ended, the Registrar shall automatically revoke the non-members permission to reside in Pikwàkanagàn.

9.2 On the petition of any ten (10) resident members of the Algonquins of Pikwàkanagàn, the Council may revoke permission of any non-member to reside in Pikwàkanagàn who is referred to in Section 3 if it has been shown that:

- a) the person, while a resident of Pikwàkanagàn, has been convicted of an indictable offence under the Criminal Code (Canada) for which a pardon has not been granted; or
- b) the person, within any period of two years while residing in Pikwàkanagàn, has committed two (2) or more offences under the Criminal Code (Canada), against the person or property of another resident, for which he has been convicted and for which a pardon or pardons have not been granted; or
- c) that it would be detrimental to the best interest of Pikwàkanagàn to permit the person to continue to reside in Pikwàkanagàn; or
- d) whether the person constitutes a serious threat to the life, safety, or physical and/or mental and/or spiritual well-being of any other person residing in Pikwàkanagàn, or their property.

9.3 A petition shall not be considered under this section in respect of a resident who, at the time of the petition, is under the age of eighteen (18) years.

9.4 No revocation of a resident's permission to reside in Pikwàkanagàn shall affect the permission of the member spouse and dependent children of that person to continue to reside in Pikwàkanagàn.

9.5 Chief and Council shall deal with a petition for revocation.

**10. REVOKING RESIDENCY RIGHTS OF REGISTERED MEMBERS**

- 10.1 The Council may, on 60 days written notice to a member, convene a general meeting of the Algonquins of Pikwàkanagàn to consider whether a member should be expelled from Pikwàkanagàn on the grounds that the member constitutes a serious threat to the life, safety, or physical and/or mental and/or spiritual well-being of any other person residing in Pikwàkanagàn, or their property.
- 10.2 A general meeting called under subsection 10.1 shall only be effective if the Council provides 30 days in advance, written notice to the Algonquins of Pikwàkanagàn membership of the time, place and purpose of the meeting.
- 10.3 The member whose expulsion as a resident is being considered must be given the opportunity to make submissions and give answers to the general membership before any vote to expel is called.
- 10.4 A resolution expelling a member from the community shall be effective only if supported by at least three-quarters of the votes cast by the members present at the general meeting convened to consider the expulsion.
- 10.5 The expulsion of a member as a resident shall not affect the rights of others residing in the household.
- 10.6 A person who has been expelled from the community shall not be eligible to reapply for residency until the fifth anniversary of their residency rights.

**5. APPEAL BOARD MEMBERS**

- 11.1 The Council shall appoint members to the Appeal Board, which will consist of members of the Algonquins of Pikwàkanagàn. An Appeal Board hearing, pursuant to Section 6 and 9 of this law, making recommendations to Council, shall consist of 3 members.

- 11.2 Any recommendation by the Board Members requires the support of at least two (2) members.
- 11.3 The Appeal Board Members shall make rules of procedure governing appeals for Chief and Council's approval, and shall keep records of its proceedings.
- 11.4 An Appeal Board Member shall not be the Registrar or a member of the Council.

**12. APPEALS**

- 12.1 Within thirty (30) days after the posting of a notice of the Registrar's decision in the Administration Office, the applicant in the case of Section 6 or the affected resident in the case of Section 9, or any member of the Algonquins of Pikwàkanagàn, may appeal the decision to the Appeal Board by filing a written request with the Registrar of Residents that the Appeal Board to hear the appeal.
- 12.2 Within thirty (30) days after the filing of the request, the Appeal Board shall conduct a hearing with respect to the appeal.
- 12.3 At least fourteen (14) days prior to the date of the hearing, the Registrar of Residents shall
  - a) give written notice to the appellant and/or petitioners of the date, time and place of the hearing and shall inform the appellant and/or petitioners that they must appear and make oral or written submissions, or both, at the hearing in support of the case and subject to Section 9; and
  - b) post in the Administration office a copy of the notice.
- 12.4 At the hearing, the Appeal Board members shall
  - a) provide the appellant and/or petitioners with an opportunity to present evidence and to make oral or written submissions, or both, in support of the appeal or petition; and
  - b) provide any resident present at the hearing with the opportunity to be heard.

- 12.5 After it has heard all of the evidence and submissions, the Appeal Board members shall meet in private to consider the appeal.
- 12.6 In determining whether an appeal should be allowed, the Appeal Board members shall take into consideration the criteria set out in subsections 6.2 and 6.3 in the case of a section 6 appeal and the criteria set out in Section 9 in the case of a petition for revocation.

12.7 The Appeal Board Members shall give written recommendation to the Council.

**13. FINAL DECISION**

13.1 Any revocation of entitlement of a person to reside in Pikwàkanagàn shall require quorum of the Council voting in favour of the petition.

13.2 Within twenty (20) days after the Council has received the petition referred to in subsection 9.2, the Council shall dispose of the application by:

- a) granting the applicant permission to be a resident in Pikwàkanagàn for an indefinite period until such time as the applicant ceases to reside in Pikwàkanagàn;
- b) granting the applicant permission to be a resident in Pikwàkanagàn for a defined period;
- c) extending any defined period for which permission was previously granted to the person by the Council to be a resident in Pikwàkanagàn;
- d) refusing the application – if refused a Band Council Resolution will be signed and a copy provided to the OPP for enforcement.

13.3 Within five (5) days after disposing of the application, the Council shall post a notice of its decision in the Administration Office.

**14. PENALTIES**

14.1 Any person who contravenes any of the provisions of this law commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars (\$1,000) or to imprisonment for a term not exceeding thirty (30) days, or both.

This Law #2007 - **Governing the Residence of Members and Other Person within Pikwàkanagàn** is Hereby enacted at a duly convened meeting of the Council of the Algonquins of Pikwàkanagàn this 31<sup>st</sup> day of July 2007.

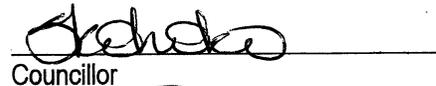
  
Chief

  
Councillor

  
Councillor

  
Councillor

  
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