

THE STURGEON LAKE INDIAN BAND BY-LAW NO. THREE (3)
"STURGEON LAKE BAND HOUSING BY-LAW"

WHEREAS the Council of the Sturgeon Lake Indian Band of the Sturgeon Lake Indian Reserves #154, #154A and #154B, in the Province of Alberta, desires to make a By-law for purposes contained in subsections 81(i), (t), (q) and (r) of the Indian Act, R.S.C., 1970, c. I-6, as amended;

AND WHEREAS the Governor-General-in Council has, by Order in Council P.C. - 1976 - 2141, dated September 8, 1976, declared that the Sturgeon Lake Indian Band has reached an advanced stage of development;

AND WHEREAS the Council of the Sturgeon Lake Indian Band has, by resolution, approved Residential Occupancy Agreements for certain members of the Sturgeon Lake Indian Band to occupy housing on the Reserves;

AND WHEREAS the Council of the Sturgeon Lake Indian Band is desirous of providing for the enforcement of the aforesaid Residential Occupancy Agreements;

THEREFORE BE IT RESOLVED THAT:

1. This By-law may be cited as the "Sturgeon Lake Band Housing By-law";

DEFINITIONS

2. In this By-law,
 - A. "Band" means the Sturgeon Lake Indian Band;
 - B. "Council" means the Council of the Sturgeon Lake Indian Band;
 - C. "Indian Act" means the Indian Act R.S.C. 1970, c. I-6, as amended from time to time;
 - D. "Judge" means a Police Magistrate, Stipendiary Magistrate or Justice of the Peace referred to in sections 106 and 107 of the Indian Act of any other court or judicial officer thereof having jurisdiction pursuant to the provisions of the Indian Act; or a Provincial Court Judge appointed under The Provincial Court Judges Act, R.S.A. 1980, C. P-20.1 or any other judge of a court of competent jurisdiction;

- E. "Land" means land situated on the Sturgeon Lake Indian Reserves #154, #154A, and #154B, or any other land which may be designated by the Government of Canada and granted to the Sturgeon Lake Indian Band No. 25 as Reserve Land, and includes tenements, hereditaments, or any estate, interest, license or permit therein and, without restricting the generality of the foregoing, includes timber, but does not include minerals;
- F. "Landlord and Tenant Act" means the Landlord and Tenant Act, R.S.A. 1980, c. L-6, as amended from time to time;
- G. "Member of the Band" means a member of the Sturgeon Lake Indian Band;
- H. "Occupant" means a Member of the Band named as the Occupant of Land in a Residential Occupancy Agreement;
- I. "Premises" means a house or place of habitation located on the Land and described as the premises in a Residential Occupancy Agreement;
- J. "Residential Occupancy Agreement" means an agreement between the Band and one or more Members of the Band approved by Resolution of the Council which provides for the use and occupation by the Member or Members of the Band, of certain housing located on the Land on the terms and conditions set out in the Agreement;

ENFORCEMENT OF RESIDENTIAL OCCUPANCY AGREEMENTS

3. Any person who breaches any term of a Residential Occupancy Agreement is guilty of an offence punishable on summary conviction, and is liable for a fine of not more than \$500.00 and/or imprisonment for a term not exceeding six months.

4. In the event an Occupant is in breach of any term of a Residential Occupancy Agreement entitling the Band to evict the Occupant from the premises described in the Residential Occupancy Agreement then, in the event the Band has given the Occupant such

notice of eviction as may be required in the Residential Occupancy Agreement and in the event the Occupant refuses or neglects to vacate the premises within the time provided in the Residential Occupancy Agreement and any notice thereunder, then, the Council, on behalf of the Band, may apply to a Judge;

5. A Judge to whom application is made by the Band as hereinbefore provided:

- (a) shall hear evidence adduced on the subject of the application viva voce or on Affidavit; and
- (b) if he is satisfied, on the basis of the evidence adduced, that an Occupant has failed to comply with a duly delivered notice of eviction pursuant to the terms of a Residential Occupancy Agreement, shall, in addition to any other remedies, issue to the Council an Order for Possession entitling the Council to vacant possession of the premises which are the subject of the Residential Occupancy Agreement on such terms as the Judge may deem just;

6. In the event an Occupant who is served with an Order for Possession granted by a Judge fails to vacate the premises in accordance with the Order for Possession, then, in that event, the Order for Possession, at the instance of the Council, shall be enforced by the Police or other civil authority having jurisdiction on the Reserves;

7. The Council, on behalf of the Band, may apply to a Judge in respect of any alleged breach by an Occupant of any provision of a Residential Occupancy Agreement including, without restricting the generality of the foregoing, the recovery of

arrears of rents payable under a Residential Occupancy Agreement, and upon such application being made, the Judge shall have the jurisdiction and powers of a Court within the meaning of the Landlord and Tenant Act, provided, however, that in the event of conflict, whether substantive or procedural, between a Residential Occupancy Agreement and the Landlord and Tenant Act, the provisions of the Residential Occupancy Agreement shall govern;

8. In addition to any other remedy which a Judge may grant on an application pursuant to this By-law, a Judge may make an order for costs in favour of the Council;

9. An application contemplated in paragraphs 3 and 6 of this By-law shall be commenced by Notice of Motion, and, unless otherwise ordered by a Judge, a copy of the Notice of Motion and any Affidavit sworn in support thereof, shall be served on the Occupant against whom relief is sought. Where the Judge is satisfied that personal service under this paragraph is, in the circumstances, impractical, the Judge may direct a means of substitutional service or, where appropriate in the opinion of the Judge, dispense with service entirely;

10. Any relief granted to a Council by a Judge may be enforced by the Council in the same manner as an Order under the Landlord and Tenant Act may be enforced, provided, however, that if any provision of the Landlord and Tenant Act conflicts with

provisions contained in the Indian Act or this By-law, then the Indian Act or this By-law, as the case may be, shall govern and, without restricting the generality of the foregoing, enforcement of any Order on the Reserve shall be restricted to such Peace Officers as have jurisdiction on the Reserve pursuant to the Indian Act.

PASSED at a Council Meeting this 24 day of APRIL, A. D. 1986.

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COUNCILLOR

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CHIEF

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APPROVED BY THE MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT the ____ day of _____, A.D. 1986

MINISTER OF INDIAN AFFAIRS
AND NORTHERN DEVELOPMENT