

Date of effect:
Enacted November 29, 1993
Effective January 11, 1994

**RESIDENCY BY-LAW
OF
THE STONEY INDIAN TRIBE**

WHEREAS the Tribal Council desires to establish a by-law to regulate and control residency of Band Members and other persons on the Reserve of the Tribe in a proper and lawful manner;

AND WHEREAS the Tribal Council is empowered to make such a by-law pursuant to Sections 81(1)(c), (d), (p), (p.1), (p.2), (q) and (r) of the Indian Act;

NOW THEREFORE the Tribal Council of the Stoney Indian Tribe hereby makes the following by-law:

CITATION

1. This By-law may be cited as the Residency By-law of the Stoney Indian Tribe.

DEFINITIONS

2. For the purposes of this By-law:
 - (a) "Child" means any person under the age of eighteen years and includes a child born in or out of wedlock, a legally adopted child, and a child adopted in accordance with Indian custom;
 - (b) "Committee of Elders" means the Committee of Elders established pursuant to Section 9(1) of this By-law;
 - (c) "Member" means a person whose name has been entered upon the Membership List of the Stoney Indian Tribe;

- (d) "Reserve" means all the Reserves of the Stoney Indian Tribe;
- (e) "Reside" means to use or occupy a residence on the Reserve for a period longer than Seven (7) consecutive days or Twenty (20) days in a Thirty (30) day period;
- (f) "Residence" includes any permanent or temporary dwelling including any house, apartment, mobile home, or a room located therein, or any similar lodging suitable for habitation;
- (g) "Tribe" means the Stoney Indian Band comprised of the Bearspaw, Chiniki and Wesley Bands;
- (h) "Tribal Council" means the Chiefs and Councillors of the Tribe;
- (i) "Tribal Administration" means the Stoney Tribal Administration;
- (j) "Visitor" means a person who is on the Reserve for a specific purpose and a limited period of time not to exceed Seven (7) consecutive days.

MEMBER

3. Every Member of the Tribe is permitted to reside on the Reserve.

CHILDREN OF MEMBERS

4. A dependent child of a Member or any child of whom the Member has custody is permitted to reside on the Reserve with their member parent or member guardian.

NON-MEMBERS

5. (a) With the exception of a dependent child, a non-member is not permitted to reside on the Reserve unless that person has been granted a Residency Permit by the Tribal Council pursuant to this By-law or a Permit has been granted by the

Minister of Indian Affairs and Northern Development pursuant to Sections 28(2) or 58(3) of the Indian Act with the consent of the Tribal Council.

- (b) Any non-member who wishes to reside on the Reserve must apply to the Tribal Council for a Residency Permit.
- (c) A non-member Visitor is not required to obtain a Residency Permit.

APPLICATION PROCEDURE FOR RESIDENCY PERMITS

- 6. (a) All applications by non-members for a Residency Permit must be made to the Tribal Council by submitting an application in a form approved by the Tribal Council.
- (b) The Tribal Council shall appoint a person from the Tribal Administration to be responsible for administration of applications and maintenance of records relating to Residency Permits.
- (c) Within Thirty (30) days of receiving a properly completed application, the Tribal Council shall hold a hearing to determine whether a Residency Permit shall be granted.
- (d) At least Seven (7) days prior to the hearing the applicant shall be provided a notice in writing stating the date, time and place of the hearing and informing the applicant that he or she has a right to appear and speak to the Tribal Council.
- (e) At the hearing, the Tribal Council may consider any information which the Tribal Council considers, at its sole discretion, to be relevant to the application, whether from the applicant, Members or other interested persons, who are present.
- (f) The Tribal Council upon being satisfied:

- (i) that the applicant is of good character; and
- (ii) that the applicant intends to reside in a specific residence on the Reserve; and
- (iii) that the member occupying the residence agrees to the granting of the Residency Permit; and
- (iv) that there is adequate housing to accommodate the applicant; and
- (v) that the applicant will uphold the traditions, customs and laws of the Tribe; and
- (vi) that the applicant will maintain law and order and not disrupt the harmony and peace of the community; and
- (vii) that to permit the applicant to reside on the Reserve will be in the best interests of the Tribe; and
- (viii) that the applicant will uphold the terms and conditions of the Residency Permit;

shall by resolution of a quorum of the Tribal Council grant to the applicant a Residency Permit.

- (g) The Tribal Council's decision and reasons therefore shall be provided in writing to the applicant.
- (h) The decision granting a Residency Permit shall state if any of the following conditions are to govern the residency of the applicant:

- (i) a description of the specific residence to which the Residency Permit applies;
- (ii) the name of the Member occupying the residence;
- (iii) continuous employment of the applicant;
- (iv) prohibition of the use or possession of alcoholic beverages, illegal drugs or other prohibited substances at or near the residence;
- (v) that conviction for an offence under any statute, regulation or by-law of the Tribe, Canada or Alberta by the applicant terminates the Residency Permit;

It shall also state the date upon which the Residency Permit takes effect and the period of time for which the Residency Permit is effective.

- (i) The Tribal Council shall charge a fee of \$100.00 to reimburse the Tribe's administrative costs of granting of a Residency Permit to be paid prior to issuance of the Residency Permit.
- (j) Any applicant whose application is refused under this section may appeal to the Committee of Elders pursuant to Section 10 of this By-law.

RESIDENCY LIST

7. The Tribal Council shall maintain a Residency List which shall record the following information for each person granted a Residency Permit:

- (a) The person's name and date of issuing the Residency Permit;
- (b) A statement of any conditions governing the person's residency on the Reserve;

- (c) Any other information deemed relevant by the Tribal Council.

CANCELLATION OF A RESIDENCY PERMIT

8. (a) Any non-member who has obtained a Residency Permit under the provisions of this By-law may have his or her Residency Permit cancelled by a resolution passed by a quorum of the Tribal Council where, after hearing it has been shown that:
- (i) the permittee has been convicted of an indictable offence which occurred on the Reserve involving the property or person of a Member or another resident; or
 - (ii) the permittee has been convicted of a lesser offence, including breach of By-laws, which occurred on the Reserve against the property or person of a Member or another resident; or
 - (iii) the permittee is in breach of a condition of the Residency Permit; or
 - (iv) the permittee has provided false information in his or her application for a Residency Permit; or
 - (v) the permittee is no longer of good character; or
 - (vi) the permittee is no longer residing in the specific Residence on the Reserve indicated in his or her application or for which the Residency Permit was issued; or
 - (vii) the Member occupying the Residence no longer agrees to the permittee occupying the Residence; or
 - (viii) there is no longer adequate housing to accommodate the permittee; or

- (ix) the permittee has failed to uphold the traditions, customs and laws of the Tribe; or
 - (x) the permittee has failed to maintain law and order or has disrupted the harmony and peace of the community; or
 - (xi) the issuance of a Residency Permit to the permittee is no longer in the best interests of the Tribe.
- (b) At least Seven (7) days prior to the hearing, all interested persons (as deemed by Tribal Council in its sole discretion) shall be provided a notice in writing stating the date, time and place of the hearing and informing them that they have a right to appear and speak to the Tribal Council.
- (c) A non-member may have his or her Residency Permit cancelled by a resolution passed by a quorum of the Tribal Council after the hearing. The resolution shall state the reasons for the cancellation and direct that the name of the non-member be removed from the Residency List.
- (d) Where a person has had his or her Residency Permit cancelled he or she shall be ordered by Tribal Council to vacate the Residence and leave the Reserve within Ten (10) days after the cancellation of the Residency Permit.

COMMITTEE OF ELDERS

9. (a) The Tribal Council shall appoint a Committee of Elders, consisting of Three (3) Elders, one each from the Bearspaw, Chiniki and Wesley Bands, to hear appeals pursuant to Sections 6 and 8.
- (b) Any decision of the Committee of Elders regarding any appeal under this By-law shall require the support of at least Two (2) Elders.

- (c) The Committee of Elders may make rules of procedure governing appeals and shall keep records of its proceedings.

APPEALS

- 10. (a) Within Twenty (20) days of the Tribal Council's decision, the applicant in the case of Section 6, or the affected resident in the case of Section 8, may appeal the Tribal Council's decision to the Committee of Elders by filing a written request with the person appointed under Section 6(b) responsible for administration of applications that the Committee of Elders hear the appeal.
- (b) Within Twenty (20) days after the filing of the request for an appeal, the Committee of Elders shall conduct a hearing with respect to the appeal.
- (c) At least Seven (7) days prior to the date of the hearing, the Committee of Elders shall give written notice to the appellant of the date, time and place of the hearing and shall inform the appellant that he or she has the right to appear and make oral and written submissions, or both, at the hearing in support of the appeal.
- (d) At the hearing, the Committee of Elders shall provide the appellant with an opportunity to present evidence and to make oral or written submissions, or both, in support of the appeal and provide any resident present at the hearing with the opportunity to be heard.
- (e) After it has heard all of the evidence and submissions, the Committee of Elders shall meet in private to consider the appeal.
- (f) In determining whether an appeal should be allowed, the Committee of Elders shall take into consideration the criteria set out in Sections 6(f) in the case of Section 6 appeal, and the criteria set out in Section 8(a) in the case of a Section 8 appeal.

- (g) Within Ten (10) days after hearing the appeal the Committee of Elders shall give written notice of its decision to the appellant and to the Tribal Council.

PENALTIES

11. (a) Any Member or any person holding a Residency Permit who allows a non-member to reside in their residence without a Residency Permit commits an offence.
- (b) Any non-member residing on the Reserve without a Residency Permit is in violation of this By-law, and in addition to any other penalties that may be prescribed under Section 11(c) of this By-law, shall be removed from the Reserve.
- (c) Upon a complaint being filed by the Tribal Council, any person in violation of this By-law is subject, upon summary conviction, to a fine not exceeding One Thousand (\$1,000.00) Dollars or imprisonment for a term not exceeding Thirty (30) days, or both.
- (d) Any peace officer may order any person who is residing on the Reserve, and who is not a Member nor a person holding a valid Residency Permit, to cease to reside on the Reserve and to remove such person from the Reserve.
- (e) Any person who fails or refuses to comply with an order made under Section 8(d) or under Section 11(d) of this By-law commits an offence.
- (f) Any person who assists or allows a person to reside on the Reserve after that person has been ordered to cease to reside on the Reserve commits an offence.

INTERPRETATION OF BY-LAW

12. (a) Words in this By-law that would normally imply the singular or male gender shall be interpreted as including the singular and plural and the masculine and feminine or neuter gender where the context requires.
- (b) If any part of this By-law is found by the Courts to be ineffective or inoperative by rule of law, it shall be severed from the By-law in order to preserve the intent of the whole.
- (c) This By-law shall be interpreted and applied in a manner consistent with the customs, traditions and values of the Tribe and nothing in this By-law should be construed or interpreted so as to deny, abrogate or derogate from any of the Aboriginal and Treaty rights of the Tribe and the Members of the Tribe.

ENFORCEMENT DATE

13. This By-law shall not be enforced for a period of Thirty (30) days from the date it comes into force.

The Residency By-law of the Stoney Indian Tribe is hereby approved and adopted this 29th day of November, 1993, by the Tribal Council of the Stoney Indian Tribe.


CHIEF

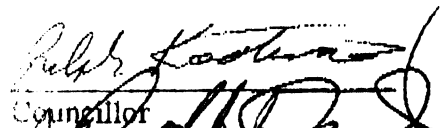

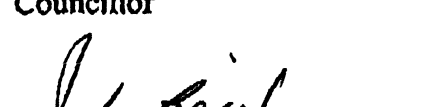
BEARSPAW BAND


CHIEF

CHINIKI BAND


CHIEF

WESLEY BAND


Councillor
Councillor
Councillor
Councillor
Councillor
Councillor

Councillor

Dave Burris
Councillor

Georgie Chumik
Councillor

Councillor

Councillor

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