

Peigan Nation Bylaw No. 2

Being a bylaw to Regulate House Payments of Homes Located on the Peigan Nation Reserve 147 and 147B

WHEREAS the Council of the Peigan Nation desires to make a bylaw for the regulation of House Payments for houses on the Peigan Reserve that are owned by the Peigan Nation;

AND WHEREAS the occupation of land on the Peigan Reserve is at the pleasure of the Council of the Peigan Nation;

AND WHEREAS nothing in this Bylaw shall be construed so as to abrogate or derogate from any Aboriginal or Treaty Rights of the Peigan Nation and its members, including any Aboriginal or Treaty right to housing;

AND WHEREAS the Council of the Peigan Nation deems it to be in the best interests of the members of the Peigan Nation to provide for housing for Peigan Nation members, through available Federally funded programs;

AND WHEREAS it has become a matter of critical concern to the Council of the Peigan Nation that House Payments are not being made on a timely basis and funding allocations for future housing are at risk;

AND WHEREAS House Payments must be made in order to maintain the current band owned homes, as well as secure future homes;

AND WHEREAS paragraphs 81(1)(c), (h), (p.1), (q), and (r) of the *Indian Act* empower the Council of the Peigan Nation to make bylaws for the enforcement and collection of House Payments that are payable to the Peigan Nation;

NOW THEREFORE the Council of the Peigan Nation hereby enacts the following Bylaw:

1 SHORT TITLE

1.1 This Bylaw may be cited as the "Peigan Nation House Payment Bylaw".

2 INTERPRETATION

2.1 In this Bylaw:

- (a) "Appeal Tribunal" shall be a Peigan Nation Appeal or Justice Tribunal as appointed by Council from time to time, or as otherwise established pursuant to the bylaws or customs of the Peigan Nation or by Band Council Resolution;
- (b) "Peigan Nation Administration or entities" shall include any departments or entities that are controlled, owned or operated on behalf of or for the Peigan Nation, and shall include contractors and consultants;
- (c) "Council" means the Chief and Councillors of the Peigan Nation;
- (d) "House" means the residence owned by the Peigan Nation that is the subject of a Housing Agreement or a residence for which the loan has been guaranteed by the Peigan Nation or through a Ministerial Guarantee;
- (e) "House Payments" means amounts payable under a Housing Agreement, including those amounts that are classified as mortgage or rental payments;
- (f) "Housing Administrator" means that person or persons appointed to oversee housing matters on the Peigan Nation Reserve;
- (g) "Housing Agreement" means any rental agreement, oral or written, entered into between the Housing Authority or Council and the Occupant where the Occupant resides in a House on the Peigan Reserve;
- (h) "Housing Authority" means the Peigan Nation Housing Authority or Peigan Band Housing that has entered into Housing Agreements with the Occupant or acts as the representative of Council with respect to such Agreements;
- (i) "Housing Committee" means the committee from Council delegated the Housing portfolio;
- (j) "Occupant" means the person or persons occupying a House, including the persons occupying a House, pursuant to a Housing Agreement or other Agreement with the Housing Authority or with Council.

3 APPLICATION

- 3.1 This Bylaw applies to the collection of House Payments for the use of Peigan Nation owned houses and for those Houses that have been built with loans guaranteed by the Peigan Nation and through Ministerial Guarantees.

4 HOUSING COMMITTEE

- 4.1 Council delegates the responsibility for implementing and administering this Bylaw to the Housing Committee.
- 4.2 For purposes of this Bylaw, the Housing Committee shall:
- (a) receive and hear complaints from the Housing Administrator with respect to House Payments;
 - (b) issue orders with respect to the collection of House Payment arrears; and
 - (c) report to Council.
- 4.3 The Housing Committee shall give reasons for any order it issues and cause the order to be served upon the Housing Administrator and affected Occupant.

5 HOUSING ADMINISTRATION

- 5.1 The Council may, by resolution, appoint one or more Housing Administrators, who shall be responsible for the administration and enforcement of this Bylaw.

6 HOUSE PAYMENTS

- 6.1 House Payments shall be as determined:
- (a) through Housing Agreements signed between the Housing Authority and the Occupant; or
 - (b) from time to time by the Housing Committee as a result of negotiations or directions from funding sources and in accordance with area fair market values.

7 HOUSING AGREEMENTS

- 7.1 Prior to moving into a House, prospective Occupants shall fully execute a Housing Agreement with the Housing Authority.

- 7.2 Those Occupants who have not entered into Housing Agreements shall do so upon written notice from the Housing Authority and if a Housing Agreement is not fully executed within thirty (30) days of such notice, and House Payments are in arrears the Housing Authority shall make a complaint to the Housing Committee pursuant to subsection 9.1.

8 WAGE AND PROCEED ASSIGNMENTS

- 8.1 Employees of Peigan Nation Administration or entities may direct their supervisors, department managers or the Peigan Nation accounting department in writing to deduct Rental Payments from their salary or wages.
- 8.2 Where Peigan Nation Administration or entities have been directed in writing by an employee to deduct Rental Payments from their salary or wages, they shall pay such amounts to the Housing Authority as specified in writing by the employee by the 10th of the month immediately following when such amount was deducted.
- 8.3 A Peigan Nation member may direct in writing that specified amounts owing to them from Peigan Nation Administration or entities for per capita distributions, land or grain proceeds or animal proceeds or any other such reason be paid to the Housing Authority for Rental Payments.
- 8.4 Where Peigan Nation Administration or entities have been directed in writing by a Peigan Nation member to direct a specified amount to the Housing Authority for Rental Payments then the Peigan Nation Administration or entities shall pay such amount to the Housing Authority by the 10th of the month immediately following when such amount was deducted or payable to the Peigan Nation member.
- 8.5 Failure by the Peigan Nation Administration or entities to deduct or pay the amounts as specified in sections 8.1, 8.2, 8.3 and 8.4 shall be an offence.

9 NOTICE

- 9.1 Where the Housing Administrator, or delegate of the Housing Administrator, determines that the Occupant is at least seven (7) days in arrears in House Payments, the Housing Administrator shall make a complaint to the Housing Committee and shall give a notice of the complaint to the Occupant.

- 9.2 Service of notice of the complaint shall be served at least seven (7) days prior to any hearing of the matter by the Housing Committee.
- 9.3 Hearing of the complaint shall be heard by the Housing Committee within twenty-one (21) days of the complaint.
- 9.4 Such service on the Occupant shall be by personal service or single registered mail.

10 ORDER

- 10.1 Where, on complaint of the Housing Administrator, the Housing Committee determines that an Occupant has failed to pay the House Payments as set out in section 6, the Housing Committee may make an order in the prescribed form:
- (a) That the Occupant pay the overdue House Payment by a date specified in the Order;
 - (b) That the Occupant be given notice to vacate the House on a specified date; or
 - (c) That legal action be taken against the Occupant for:
 - (i) payment of arrears;
 - (ii) termination of occupation; or
 - (iii) both.
- 10.2 Where the Housing Committee makes an Order pursuant to subsection 10.1, notice of the Order shall be served upon the Occupant within seven (7) days of such Order, along with appeal information as set out in this Bylaw.

11 SERVICE OF NOTICES

- 11.1 Subject to subsections 9.4 and 11.3, any notice, order or other document to be served by or on the Housing Committee, Housing Administrator or Occupant shall be served by personal delivery on the parties.
- 11.2 A notice sent by single registered mail shall be deemed to have been served on the seventh (7th) day after the date of mailing.

- 11.3 Where a notice, order or other document requiring personal service cannot be served personally on an Occupant who is absent or evading service, the Housing Committee may make an order:
- (a) that the notice, order or other document may be served on the Occupant by serving it on any adult person at the House;
 - (b) by posting the notice, order or other document for seven (7) days in the Peigan Nation administration offices; or
 - (c) by posting the notice, order or other document on the door of the House.

12 APPEAL TO APPEAL TRIBUNAL

- 12.1 An Occupant or the Housing Administrator may appeal a decision of the Housing Committee to the Appeal Tribunal in the prescribed form within ten (10) days after the date that a notice of the order has been served on the Occupant. An appeal may only be made on the following grounds:
- (a) the Housing Committee failed to follow the procedures as set out in the Bylaw, or it failed to exercise its discretionary powers in a fair and equitable manner, or
 - (b) new evidence is now available and is being produced or the appeal is based on some other meritorious ground.
- 12.2 Service of the Notice of Appeal on the Appeal Tribunal shall be made by serving the Housing Administrator.
- 12.3 An Occupant may make application to the Appeal Tribunal that the operation or effect of the order in respect of which the appeal is made shall be stayed until after the appeal is heard and determined.
- 12.4 As soon as is practical, but not later than thirty (30) days after the filing of an appeal, the Appeal Tribunal shall convene and shall conduct a hearing with respect to the appeal but shall only have jurisdiction to review the following:

- (a) whether or not the Housing Committee followed the procedures pursuant to this Bylaw, or it failed to exercise its discretionary powers in a fair and equitable manner, or
- (b) whether or not new evidence is being produced or is now available or, the appeal is based on some meritorious ground.

12.5 At least seven (7) days prior to the date of the hearing, the Appeal Tribunal shall give written notice to the Occupant of the date, time and place of the hearing and shall inform the Occupant that he or she has the right to make oral or written submissions at the hearing in support of the appeal.

12.6 As soon as is practicable, but not later than ten (10) days after hearing the appeal, the Appeal Tribunal shall dispose of the appeal by:

- (a) allowing the appeal; or
- (b) dismissing the appeal

and the decision of the Appeal Tribunal shall incorporate written reasons for the decision.

12.7 The Appeal Tribunal shall provide written notice of the decision to the Occupant and the Housing Committee immediately after making such decision.

12.8 All decisions and orders of the Appeal Tribunal shall be final and binding.

13 PENALTIES

13.1 Where an Occupant who has been ordered to make House Payments or to vacate a House fails or refuses to do so within thirty (30) days after the Order is made then the Occupant commits an offence.

13.2 Any person who assists an Occupant to continue to occupy a House after being ordered to vacate commits an offence.

13.3 Any person who commits an offence pursuant to this Bylaw is liable to a fine not exceeding one thousand dollars (\$1,000.00) or to imprisonment for a term not exceeding thirty (30) days, or both.

14 OTHER REMEDIES

- 14.1 This Bylaw does not prohibit Council, on behalf of the Peigan Nation, or the Housing Authority, from taking such other legal remedies available to the Peigan Nation or the Housing Authority for House Payments in arrears other than those remedies set out in this Bylaw.
- 14.2 Other legal remedies may be commenced prior to, at the same time, or subsequent to the remedies available under this Bylaw.

15 AMENDMENTS

- 15.1 This Bylaw may be amended or altered from time to time by Council if the following procedures have been followed:
- (a) The Housing Authority or Housing Committee makes amendment or alteration recommendations to Council;
 - (b) The amendments or alterations are duly considered by Council in the best interests of the Peigan Nation membership;
 - (c) Proposed amendments or alterations are posted or published and Peigan Nation members are given 30 days to provide comments on the proposed amendments or alterations;
 - (d) A Band Council Resolution is passed by a quorum of Council; and
 - (e) The Minister does not disallow the proposed amendments or alterations.
- 15.2 Upon the procedures set out in section 15.1 being followed, the amendments or alterations shall be in force 40 days after they have been forwarded to the Minister pursuant to section 82(2) of the *Indian Act* and shall have the same force and effect as if they had been originally embodied in and formed part of this Bylaw.

16 IN FORCE

- 16.1 This Bylaw shall be in force after it has been passed by a quorum at a duly convened meeting of the Peigan Nation Council and upon the expiration of 40 days after it has been forwarded to the Minister pursuant to section 82(2) of the *Indian Act*.

17 SEVERABILITY

17.1 Every section and part thereof of this Bylaw is severable and where a section or part thereof is declared void or invalid, the remaining sections shall continue to be valid and of full force and effect.

READ A FIRST TIME 5:20 PM ;

"PETER STRIKES WITH A GUN"
CHIEF

READ A SECOND TIME 5:45 PM ;

"PETER STRIKES WITH A GUN"
CHIEF

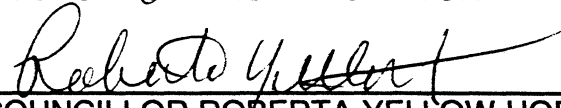
DONE AND PASSED by the Peigan Nation Council this ____ day of _____, 2000
at a duly convened meeting of the Peigan Nation Council, a quorum existing.



CHIEF PETER STRIKES WITH A GUN


COUNCILLOR NEIL SHARP ADZE

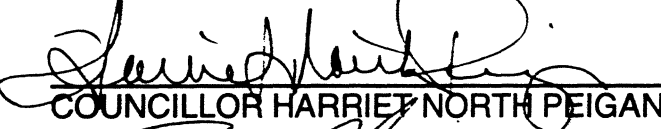

COUNCILLOR TROY KNOWLTON


COUNCILLOR ALBERTINE CROW SHOE


COUNCILLOR ROBERTA YELLOW HORN


COUNCILLOR EDWIN SMALL LEGS

COUNCILLOR LIONEL CROWSHOE


COUNCILLOR HARRIET NORTH PEIGAN


COUNCILLOR ERWIN BASTIEN


COUNCILLOR BRIAN JACKSON


COUNCILLOR CORBIN PROVOST


COUNCILLOR TERRY YELLOW HORN


COUNCILLOR DANIEL NORTHMAN