

DRIFTPILE INDIAN BAND

SOR/86-1143

BY-LAW NO. 103

A by-law regarding residence of band members and other persons on the Driftpile Indian Reserve.

WHEREAS the Indian Act, R.S.C. 1970, as amended (the "Act") recognizes that the Council of a band may make by-laws with respect to the residence of band members and other persons on the reserve;

AND WHEREAS the goals of the Driftpile Indian Band include the maintaining and protecting the health, safety, good order and advancement of the reserve society;

AND WHEREAS it is deemed expedient and in the interests of the Driftpile Indian Band to pass this By-law:

BE IT THEREFORE ENACTED as a by-law of the Driftpile Indian Band as follows:

1. In this by-law

(a) "Band" means the Driftpile Indian Band;

(b) "band member" means a person whose name is included in the Band List of the Driftpile Indian Band or who has a right to have his or her name entered in the Band List pursuant to the membership rules of the Band;

(c) "Council" means the duly elected Driftpile Indian Band Council;

(d) "dependent child" means each child of a band member or each child to whom a band member stands in loco parentis, who at the time of application for residence was either under the age of eighteen years or eighteen years of age or over, under the charge of such band member and unable, by reason of illness, disability or other cause to withdraw himself or herself from such charge or to provide himself or herself with the necessaries of life.

(e) "reserve" means those lands in and around Driftpile, Alberta, that have been set apart by Her Majesty for the use and benefit of the Driftpile Indian Band.

(f) "residence" means the place which has always been, or which has been adopted by a person as, the principal place of his or her habitation or home whereto, when away therefrom, he or she intends to return; and

(g) "spouse" includes a common law spouse.

2. Any band member who has his or her residence on the reserve on the date this by-law comes into force is entitled to remain in residence thereon permanently with his or her spouse and dependent child or dependent children.

3. Any person who, not being a band member, resides on the reserve on the date this by-law comes into force may be authorized to remain in residence thereon, permanently or for a term, by a majority vote of electors at a meeting called for that purpose. Any such authority may be subsequently revoked by a majority vote of electors at a meeting called for that purpose.

4. Any band member or other person who has resided on the reserve ceases to be entitled to reside thereon

(i) when he or she leaves or remains off the reserve with the intention of abandoning the reserve as his or her place of residence, or

(ii) when his or her name is deleted from the Band List.

Subject to clause 5 hereof, when a band member ceases to reside on the reserve, any spouse or dependent child or such band member shall thereby lose any right that he or she had to reside on the reserve pursuant to these rules unless he or she is also a band member.

5. Subject to clauses 2 and 3 hereof, when a band member or other person wishes to reside on the reserve he or she shall apply to the council in such manner as the Council may determine from time to time. Any such application may be made on behalf of the applicant alone or on behalf of the applicant and all or any one or more of his or her spouse and dependent child or dependent children.

6. The Council may consider and deal with applications pursuant to paragraph 5 hereof according to such procedure and at such time or times as it shall determine in its discretion and, without detracting from the generality of the foregoing, the Council may conduct such interviews, require such evidence and may deal with any two or more of such applications separately or together as it shall determine in its discretion. Permission to reside on the reserve may be granted permanently or for a term and, in either case, may be made subject to such conditions as Council may determine to be reasonable and expedient in the circumstances.

7. For the purposes of determining whether or not an application should be granted, or whether or not an application should be granted only on conditions specified by the Council, the Council shall take into consideration the following matters:

(a) whether that person is a band member;

(b) whether that person is or will be employed on the reserve;

(c) the provisions of By-Law No. 100 of the Band, as amended;

(d) the availability of suitable land, housing and ancillary services;

(e) the extent to which that person is prepared to commit his or her personal and economic resources to the welfare and advancement of the Band community;

(f) whether, in view of the previous conduct and lifestyle of that person, his or her residence on the reserve would be likely to be compatible with the culture, society and community of the Band and the welfare of the Band members already resident on the reserve; and

(g) any other consideration that, in the opinion of the Council, is relevant to the health, safety, good order and advancement of the reserve society.

8. In making its decision, the Council shall not discriminate on the basis of sex.

9. If the Council grants an application, with or without conditions, the applicant and any other persons listed in the application shall be thereupon entitled to reside on the reserve permanently or for a term, as the case may be, subject to the fulfillment of any conditions specified in the decision of the Council.

10. If the Council denies an application, the applicant may reapply for residence upon a change in circumstances being demonstrated to the Council.

11. An applicant may file a notice of appeal with the Council within 30 days of a decision being made and the Council shall thereafter call a general meeting of the electors of the Band for the purpose of reviewing the decision of the Council. At any such meeting the decision of the Council may be upheld, varied or reversed.

12. The Council shall maintain a list of the persons who are entitled to reside on the reserve pursuant to the foregoing provisions of this by-law provided that, for the purpose of 3(a)(i) and 6 of the Membership Rules of the Band no person shall be considered to be lawfully resident on the reserve unless he or she is entitled to reside on the reserve permanently pursuant to this by-law.

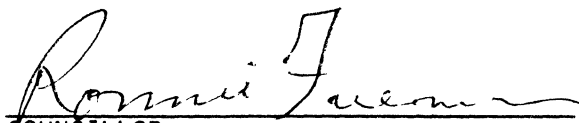
13. Subject to section 18.1 of the Act, no person shall reside on the reserve except in accordance with the foregoing provisions of this by-law.

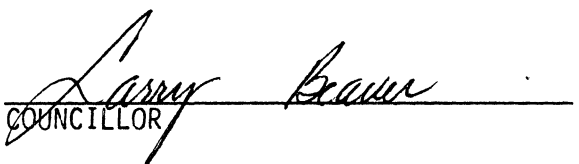
14. Any person who contravenes the provisions of clause 13 hereof is guilty of an offence and is liable upon summary conviction to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both.

15. This by-law shall come into force on the date determined pursuant to section 82 of the Act.

THIS BY-LAW DULY READ AND PASSED AT A DULY CONVENED AND CONSTITUTED MEETING OF THE DRIFTPILE INDIAN BAND COUNCIL THIS 18th DAY OF September A.D., 1986.

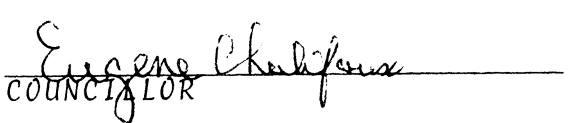

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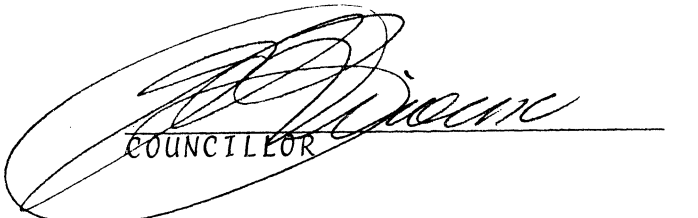

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