

BIGSTONE CREE NATION

RESIDENCY BY-LAW

BEING a by-law regarding the residency of Bigstone Cree Nation members and other persons on the Bigstone Indian Reserve:

WHEREAS the Council derives its authority from the membership of the Bigstone Cree Nation and is responsible for the peace, order and good government of the Bigstone Cree Nation;

AND WHEREAS the Council may enact a by-law governing the residency of members and non-members on the Bigstone Indian Reserve pursuant to ss. 81(1) (p) (p.1) (p.2) & (q), 81(2) and 81(3) of the *Indian Act*;

AND WHEREAS the Council has decided it is in the best interests of the Bigstone Cree Nation to enact a Residency By-Law;

THEREFORE BE IT RESOLVED THAT THE COUNCIL OF THE BIGSTONE CREE NATION HEREBY ENACTS THE FOLLOWING RESIDENCY BY-LAW:

CITATION:

1. This By-Law may be cited as the *Bigstone Residency By-Law*.

DEFINITIONS:

2. In this By-Law:
 - a. "appellant" means a person who appeals a decision of Council pursuant to s. 16 of this By-Law;
 - b. "Council" means the Chief and Council of the Bigstone Cree Nation acting with a quorum present in a meeting;
 - c. "dependant" means:

- i. a child under eighteen years of age who is the natural child of a member of Bigstone Cree Nation or a child adopted by a member of the Bigstone Cree Nation either legally or by Indian custom;
 - ii. a child under eighteen years of age who is in the custody of an adult member of the Bigstone Cree Nation;
 - iii. a person over the age of eighteen years who is unable, due to illness, disability or other cause, to withdraw from the care of the adult member having charge of the person;
- d. "*Indian Act*" means the *Indian Act* c. I-5, R.S.C. 1985 as amended;
- e. "indictable offence" means a criminal offence as defined in the *Criminal Code* of Canada as amended;
- f. "member" means a person who is registered as a member of the Bigstone Cree Nation according to the Bigstone Cree Nation Membership Code;
- g. "non-member" means a person who is not registered as a member of the Bigstone Cree Nation under the Bigstone Cree Nation Membership Code and includes a person reinstated to Indian status under the Bill C-31 amendment to the *Indian Act* who has not met the requirements of the Bigstone Cree Nation Membership Code;
- h. "Reserve" means the lands that have been set apart, the legal title of which is vested in Her Majesty in right of Canada, for the use and benefit of the members of the Bigstone Cree Nation and includes Bigstone Indian Reserves No. 166 (Sandy Lake), A, B, C, & D, Jean Baptiste Gambler Indian Reserve No. 183 and any other lands which may be acquired by way of land claims agreements;
- i. "residence" means the place where a person lives from day to day;
- j. "reside" means to live on the Reserve;

- k. "residents" means the collective group of members who reside on the Reserve;
- l. "rural area" means that part of the Reserve which is not surveyed as a townsite;
- m. "spouse" means the legal or common law spouse of a member of the Bigstone Cree Nation.
- n. "townsite" means an area of the Reserve which is surveyed and divided into lots.

RESIDENCE

- 3. A member of the Bigstone Cree Nation is entitled to reside on the Reserve.
- 4. Non-members may not reside on the Reserve without the consent of Council.
- 5. Council may give consent for a non-member to reside on the reserve either by a written resolution of Council or by adoption of a written policy of the Bigstone Cree Nation.

CONDITIONS

- 6. The Council must first approve an allocation of land on the Reserve before a member may establish a residence at that location whether the residence is a house or a mobile home.
- 7. A member may not occupy land more than that amount of land approved for a residence; in a town site the amount of land is the approved lot size for that town site and in a rural area the approved area is 2 acres (0.809 hectares).
- 8. The right to reside on the Reserve does not mean a member will be provided housing or a land allocation; the provision of housing or a land will only be done according to the housing and land use policies of the Bigstone Cree Nation.
- 9. A non-member, who resides with a member on the Reserve, may not participate in the governmental affairs of the Bigstone Cree Nation.

10. A non-member who resides on the Reserve is not entitled to make use of the resources, land, or property of the Bigstone Cree Nation for his personal profit.
11. A non-member who resides on the Reserve must keep the peace and respect the customs, by-laws and policies of the Bigstone Cree Nation.

REVOCATION OF RESIDENCY RIGHTS

12. Where a member and a non-member spouse reside on the Reserve and, due to separation, divorce or other reason, the couple ceases to live together, the non-member spouse may only continue to reside on the Reserve with the consent of Council; if Council withdraws its consent, the non-member may not reside on the Reserve.
13. Where a non-member is in contravention of any provision of this By-Law, Council may revoke the non-member's privilege to reside on the Reserve.
14. In any decision concerning residency rights of a member or residency privileges of a non-member, Council shall give its decision in writing and provide reasons for the decision.

REMEDIES

15. Notwithstanding paragraph 3, Council may suspend the right of a member of Bigstone Cree Nation to reside on the Reserve for up to 3 years if the member has been convicted of an indictable offence under the *Criminal Code* or other federal criminal legislation and poses a danger or threat to the safety of residents living on the Reserve.
16. Where a member has his entitlement to reside on the Reserve suspended, the Council may lift the suspension if the member has satisfied Council, in their sole discretion, that the member has taken such steps that he is no longer a danger or threat to the safety of residents living on the Reserve.

APPEAL

17. An appeal of a suspension of the right of a member or the withdrawal of the privilege of a non-member to reside on the Reserve may be appealed by the person affected to the Bigstone Cree Nation Appeal Board.
18. Where the right of a member has been suspended, or the privilege of a non-member to reside on the Reserve has been withdrawn by Council, the person affected may file an appeal within 30 days of being informed of the decision of Council by delivery of a written notice of an appeal to the Bigstone administration office.
19. The grounds for an appeal are as follows:
 - a. the facts concerning the appellant upon which the decision was based are incorrect;
 - b. the appellant is in compliance with the provisions of the By-Law;
 - c. the decision was made unfairly or not in keeping with the principles of natural justice.
20. The procedure to be followed in the appeal is that set out in the *Bigstone Appeal Board By-law*.

PENALTIES

21. No person shall reside on the Reserve except according to the provisions of the Bigstone Residency By-Law.
22. Where a person contravenes this By-Law, he is guilty of an offence and is subject to the imposition on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both, for violation of this By-Law.

GENERAL

23. The Council may, by resolution, prohibit any non-member from residing on the Reserve where that person does not have the

consent of Council to reside on the Reserve in accordance with the terms of this By-Law.

24. The procedure Council shall follow in prohibiting a person from residing on the Reserve is as follows:
 - a. Council shall pass a formal resolution prohibiting the person from residing on the Reserve;
 - b. the person shall be informed of the Council decision;
 - c. the person so prohibited shall not be entitled to receive any services or benefits from the Bigstone Cree Nation; and
 - d. if the person does not cease to reside on the Reserve the Council may proceed with measures to remove the person from the Reserve.
25. In addition to the remedies in this By-Law, the Council may pursue any other legal remedies to remove the person from the Reserve.
26. The Council shall establish administrative policies and procedures to aid in the observance and implementation of this By-Law.

AMENDMENT

27. This By-Law may be amended in accordance with the following procedure:
 - a. in the first reading, a draft of the proposed amendment will be tabled with Council after which the proposed amendment will be available to members of the Bigstone Cree Nation for their information;
 - b. in the second reading, Council, or a committee of Council, shall review the proposed amendment on a clause by clause basis and during this period shall consult with the membership as the deemed necessary by Council or the committee of Council;
 - c. in the third reading, the proposed amendment shall be approved by Council.

28. Where twenty-five (25%) percent of the members entitled to vote present the Council with a petition requesting changes to this By-Law, the Council shall:
- a. commence a review of the By-Law,
 - b. consult with the membership through community meetings and other means, and
 - c. give consideration to amendment of the By-Law,
- provided that the Council considers the amendment to be in the best interests of Bigstone Cree Nation.

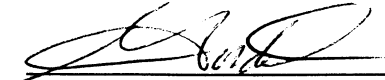
INTERPRETATION OF RESIDENCY BY-LAW

29. This By-Law shall be interpreted in accordance with the traditions, customs and values of the Bigstone Cree Nation and nothing in this By-Law shall be interpreted as to deny, do away with or take away any part of any aboriginal or treaty right of the Bigstone Cree Nation or its members.
30. Words in this By-law that are masculine shall be interpreted to include the feminine as the context requires.
31. If any part of this By-Law is found inoperative by rule of law, it is severable from the text and shall not affect the remaining portions of the By-Law.


EFFECTIVE DATE

32. This By-Law comes into effect on the date determined pursuant to s.82 of the *Indian Act*.

THIS BY-LAW IS DULY APPROVED AT A MEETING OF THE
QUORUM OF COUNCIL OF THE BIGSTONE CREE NATION ON
THE _____ DAY, OF _____, 1996.



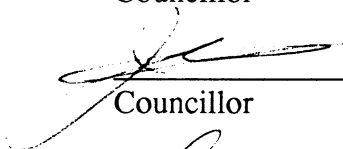
Chief



Councillor



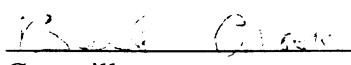
Councillor



Councillor



Councillor



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Councillor

**BAND COUNCIL RESOLUTION
RÉSOLUTION DE CONSEIL DE BANDE**

File reference no - N° de référence du dossier

034 96-97

NOTE The words "from our Band Funds" "capital" or "revenue", whichever is the case, must appear in all resolutions requesting expenditures from Band Funds.
NOTA Les mots "des fonds de notre bande" "capital" ou "revenu" selon le cas doivent paraître dans toutes les résolutions portant sur des dépenses à même les fonds des bandes

		Cash free balance - Solde disponible	
The council of the Le conseil de BIGSTONE CREE NATION		Capital account Compte capital	\$ _____
Date of duly convened meeting Date de l'assemblée dument convoquée	D J M Y-A 2 4 0 4 9 6	Province ALBERTA	Revenue account Compte revenu
			\$ _____

DO HEREBY RESOLVE:
DÉCIDE, PAR LES PRÉSENTES:

RESIDENCY BY-LAW: 3RD READING

WHEREAS the Chief and Council consider is in the best interest of the Bigstone Cree Nation that a Residency By-law be enacted;

AND WHEREAS the attached Residency By-Law has been given first and second reading.

AND WHEREAS the Elders were consulted and a community meeting was held during the course of the second reading the Residency By-law;

AND WHEREAS Chief and Council now are considering the third reading of the Residency By-law;

NOW THEREFORE BE IT RESOLVED THAT:

- Council approves the By-Law as attached; and
- A copy of the approval Residency By-Law be sent to the Minister under the signature of the Chief or a Councillor.

APPROVED BY THE BIGSTONE CREE NATION COUNCIL, AT A MEETING OF A QUORUM OF THE COUNCIL ON 24 THE OF APRIL, 1996.

Quorum 5 (FIVE)

(Councillor - Conseiller)

(Councillor - Conseiller)

Leonard [Signature]
(Councillor - Conseiller)

(Chief - Chef)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

FOR DEPARTMENTAL USE ONLY - RÉSERVÉ AU MINISTÈRE					
Expenditure - Dépenses	Authority (Indian Act Section Autorité (Article de la Loi sur les Indiens)	Source of funds Source des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue Revenu	Expenditure - Dépenses	Authority (Indian Act Section Autorité (Article de la Loi sur les Indiens)	Source of funds Source des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue Revenu
Recommending officer - Recommandé par			Recommending officer - Recommandé par		
Signature		Date	Signature		Date
Approving officer - Approuvé par			Approving officer - Approuvé par		
Signature		Date	Signature		Date

Can