

**BY-LAW NO. 5
of Kebaowek First Nation**

A By-law Respecting Housing

WHEREAS Kebaowek First Nation has the inherent right to self-government, which includes and is not limited to its jurisdiction over its lands and members, as well as the relations between them;

WHEREAS pursuant to the *United Nations Declaration on the Rights of Indigenous Peoples* adopted by the United Nations General Assembly on September 13, 2007, Anicinabe law and section 35 of *The Constitution Act, 1982*, Kebaowek First Nation has the right to self-determination, which includes, but is not limited to, its jurisdiction over its internal and local affairs and the development of its distinct economic and social institutions;

WHEREAS the Council of Kebaowek First Nation, as duly elected leaders, are empowered to act on behalf of the members of the Kebaowek First Nation Band;

WHEREAS the Council of Kebaowek First Nation deems it necessary to adopt a housing by-law to ensure peace, order, good government and the general quality of life of the inhabitants of Kebaowek First Nation;

WHEREAS the quality of life on Kebaowek's reserve depends on the availability of safe, clean and affordable housing for members to live in, which in turn depends on respect for housing policies adopted by Council and respect for housing agreements between Council and individual members;

WHEREAS the Council of Kebaowek First Nation deems it to be in the best interests of all members to implement a housing by-law that considers the availability of safe and affordable housing in the community and members' needs for housing with fairness, predictability, equitability and transparency;

WHEREAS the Council of Kebaowek First Nation considers it to be expedient for the residents and members of the Kebaowek First Nation, especially for those waiting for housing, to provide a mechanism for the enforcement of repossession of premises to facilitate reallocation of housing in the community;

WHEREAS paragraphs 81(1)(c),(d),(h),(i),(p),(p.1),(q) and (r) of the *Indian Act*, R.S.C. 1985, c. I-5, recognize the authority of the Council of Kebaowek First Nation to pass by-laws to provide for the observance of law and order, the prevention of disorderly conduct and nuisances, the regulation of the construction, repair and use of buildings, whether owned by the band or by individual members of the band, the removal and punishment of persons trespassing on reserve or frequenting the reserve for prohibited purposes, the residence of band members and other persons on the reserve, with respect to any matter arising out of or ancillary to the exercise of Council's powers under those sections and the imposition of a penalty for the violation of any such by-law;

WHEREAS the possession and occupation of lands and properties on reserve is governed by the *Indian Act* and any applicable laws or by-laws of Kebaowek First Nation;

WHEREAS the *Civil Code of Quebec* provisions related to the lease of dwellings do not apply on Kebaowek's reserve, since, among other reasons, they are incompatible with this by-law and with the *Indian Act*, particularly the rules regarding the possession and occupation of lands on reserve;

WHEREAS nothing in the by-law shall be deemed to alter, diminish or abrogate any Aboriginal or Treaty rights of Kebaowek First Nation or its members;

WHEREAS Kebaowek First Nation adopted the *Kebaowek First Nation Housing Policies & Procedures* in 2017, which remain in force and may be amended from time to time by the Council of Kebaowek First Nation;

NOW THEREFORE the Council of Kebaowek First Nation hereby makes the following by-law:

PART I - Short Title

1. This by-law may be cited as the "Kebaowek First Nation Housing By-law".

PART II- Interpretation

2. In this by-law,

"band" means Kebaowek First Nation (formerly Eagle Village First Nation – Kipawa), which is a band defined by section 2 of the *Indian Act*, R.S.C. 1985, c. I-5; ("*bande*")

"Band Council Resolution" means a written resolution signed and adopted by a quorum of Council at a duly convened meeting; ("*Résolution du Conseil de Bande*")

"Council" means the Council of Kebaowek First Nation (formerly Council of Eagle Village First Nation – Kipawa), including its Chief, which is a band Council as defined in the *Indian Act*, R.S.C. 1985, c. I-5; ("*Conseil*")

"housing agreement" means an agreement between a person and Kebaowek First Nation which authorizes the member to occupy a premises on the reserve; ("*entente de logement*")

"Housing Department" means the Kebaowek First Nation Housing Department; ("*département du logement*")

"Housing Policies" means the *Kebaowek First Nation Housing Policies & Procedures* initially adopted in 2017 and as may be amended by Council from time to time; ("*Politiques sur le logement*")

“**member**” means a member of Kebaowek First Nation; (“*membre*”)

“**notice of repossession**” means a notice in writing issued by the Council or any of its institutions under this by-law for Council to take back possession of a premises following an order of repossession issued by a Band Council Resolution; (“*avis de reprise de logement*”)

“**notice of termination**” means a written notice relating to the termination of an agreement and issued by one of the parties pursuant to the *Housing Policies*; (“*avis de résiliation*”)

“**occupant**” means a person who is authorized under a housing agreement with Council to occupy a premises and any other person living with such authorized person, or a person who has the responsibility for and control over the condition of a premises, the activities carried on there, or control over persons allowed to enter the premises, as well as any person unlawfully occupying a premises; (“*occupant*”)

“**officer**” means any police officer, peace officer, police constable, public security officer, by-law officer or any person appointed by the Council for the purpose of enforcing this by-law on the reserve; (“*agent*”)

“**order of repossession**” means an order of repossession under Part VI of this by-law; (“*ordonnance de reprise de logement*”)

“**person**” includes any physical or legal person, association, corporation, government or partnership; (“*personne*”)

“**premises**” means any dwelling house, residence, apartment, mobile home, or room located therein or any similar lodging suitable for habitation and owned by Kebaowek First Nation. The outdoor portion immediately surrounding the property is included in the premises; (“*locaux*”)

“**reserve**” means the reserve of Kebaowek First Nation (formerly known as Eagle Village First Nation – Kipawa), as defined by the *Indian Act*, R.S.C. 1985, c. I-5; (“*réserve*”);

PART III - Application

3. This by-law applies to any person or premises on the reserve of Kebaowek First Nation.
4. This by-law applies notwithstanding any other by-law, provincial statute including the *Civil Code of Québec*, C.Q.L.R. c. CCQ-991, or any agreement or waiver to the contrary, except when specifically provided by this by-law or another by-law of Kebaowek First Nation.
5. Nothing in this by-law shall be construed as extinguishing or diminishing any rights and obligations of any person or the Council pursuant to their housing agreements.

PART IV - Occupation of Premises

6. No person has a right to occupy or possess premises on the reserve, unless their occupation or possession of those premises is authorized pursuant to the terms of this by-law, a housing agreement, the *Housing Policies* or section 20 of the *Indian Act*.
7. (1) No person may sublet a premises on reserve, unless subletting is authorized by their housing agreement and the sublet agreement for the premises has been approved by a Band Council Resolution.
(2) Any person who is occupying a premises under an illegal sublease is considered an unlawful occupant pursuant to this by-law.
8. No person with a housing agreement in effect shall vacate, abandon, fail to occupy, or transfer their rights under the housing agreement, unless they are authorized to do so according to the terms of their housing agreement or to the applicable *Housing Policies*.
9. The *Civil Code of Quebec* provisions related to the lease of dwellings do not apply to premises on Kebaowek's reserve.
10. Council reserves the right to repossess a premises, evict a person or prohibit a person from occupying a premises on the reserve.
11. No person shall fail or refuse to vacate the premises if required by an order of repossession, the *Housing Policies*, any applicable housing agreement or this by-law. Any person who fails or refuses to vacate a premises as required by an order of repossession is guilty of trespass.

PART V – Notice of Termination or Prior Notice

12. (1) If a housing agreement is in effect for a premises on the reserve, then Council or the Housing Department may terminate the housing agreement in accordance with the terms of that agreement or the applicable *Housing Policies*.
(2) If a housing agreement is in effect for a premises on the reserve, then Council or the Housing Department shall issue any notice that may be required under the housing agreement or the applicable *Housing Policies* prior to issuing an order of repossession for the premises.
(3) For greater clarity, if no housing agreement is in effect for a premises or if no prior notice is required by the housing agreement or the applicable *Housing Policies*, then Council may, at any time, issue an order of repossession and take any related measures with respect to those premises without prior notice.
13. Unless another means of communication is provided for in the housing agreement in effect for the premises or in the applicable *Housing Policies*, Council shall issue any notice of termination or other notice that may be required prior to repossession by any reasonable means that allow the occupant to whom it applies to be duly informed, including the following:

- a) By sending such notice by mail to the address where the occupant resides; or
- b) By electronic mail to the last address provided by the occupant; or
- c) By delivering it in person to the occupant or any person who appears to be residing on the premises; or
- d) By posting the notice in a conspicuous place on the premises covered by the order of repossession.

PART VI - Order of Repossession

14. If any person or occupant fails to vacate or to deliver the premises within the delay prescribed by the notice of termination or other prior notice, and in any other cases where a person is unlawfully occupying a premises, Council may exercise its right to end such occupancy of the premises at any time by issuing an order of repossession for the premises.
15. Council issues an order of repossession by adopting a Band Council Resolution that expresses the terms of the order.
16. The order of repossession shall include:
- a) The address of the premises being repossessed;
 - b) The name of any specific person or occupant to whom the order is issued, if applicable;
 - c) The date of the adoption of the order of repossession;
 - d) The date upon which the order of repossession takes effect, if different from the date of its adoption;
 - e) The date upon which eviction or other removal measures shall be taken, if different from the date of the adoption of the order of repossession;
 - f) A provision fixing the date on which the order of repossession ceases to be in effect, if applicable.
17. This order may also provide for removal measures including, but not limited to:
- a) Eviction of any person from the premises;
 - b) Prohibition of any person from occupying or residing in the premises;
 - c) Removal and disposal of any personal property or belongings left on the premises;
 - d) Authorization on behalf of Kebaowek First Nation, as the lawful owner of the premises, for officers to enter the premises without a warrant to enforce the order.

18. Council or the Housing Department may change the locks of any premises subject to an order of repossession.

PART VII – Notification of the Order of Repossession

19. After issuing an order of repossession, Council shall notify the order to any specific person or occupant to whom the order is issued.
20. Unless another means of notification is provided for in the applicable *Housing Policies*, this by-law or a housing agreement in effect for the premises, Council may notify the persons or occupants to whom the order is issued by any reasonable means that allow them to be duly informed, including the following:
 - a) By sending such notice by mail to the address where the person resides; or
 - b) By electronic mail to the last address provided by the person; or
 - c) By delivering it physically to the person or any person who appears to be residing on the premises; or
 - d) By posting the notice in a conspicuous place on the premises covered by the order of repossession.
21. Any person who intentionally impedes the notification of an order or of a notice under this by-law or the *Housing Policies*, or who, without the approval of Council or the Housing Department, removes a copy of an order or of a notice posted in accordance with this by-law or the *Housing Policies*, is guilty of an offence.

PART VIII - Personal Belongings

22. Any person must remove their personal belongings from the premises that are subject to an order of repossession by the time and date specified in the order or, if no date is specified, upon which the date the order takes effect.
23. After the order of repossession takes effect, Council or the Housing Department is authorized to remove and store any personal belongings left on the premises, at the expense of the occupant or person who owns the belongings.
24. Unless another delay is provided for in the *Housing Policies* or an applicable housing agreement, Council or the Housing Department may dispose of personal belongings sixty (60) days after the order of repossession takes effect.
25. Council and the Housing Department, including their employees and mandataries, are not responsible for any damages or losses that may occur in the moving, storage, or disposal of personal belongings left on the premises.

26. After the order of repossession takes effect, if a person believes they have personal belongings that remained on the premises they may contact the Housing Department or Council and:
 - a) Provide a detailed list of personal belongings and make any arrangements suitable with the Housing Department or Council to obtain possession of their personal belongings.
 - b) Provide a detailed list of personal belongings and arrange to have them delivered to an agreed-upon location off reserve.
27. All arrangements made under this by-law that provide for a person to take possession of their personal belongings left on the premises are at the expense of such person.

PART IX - Enforcement

28. If a person fails or refuses to comply with an order of repossession issued pursuant to this by-law, an officer may take such reasonable measures as are necessary to ensure compliance with this by-law or the order of repossession, including the removal of the person from the premises.
29. A person who fails or refuses to comply with an order of repossession made under this by-law or who resists or interferes with an officer in carrying out their duties and responsibilities under this by-law commits an offence.
30. An officer may, at any time, enter a premises to administer and enforce the provisions of this by-law. An officer may enter the premises without a warrant, including when the premises are occupied, provided that:
 - a) the officer has reasonable and probable grounds to believe a person is or has been occupying the premises contrary to an order of repossession issued pursuant to the present by-law; and
 - b) authorization on behalf of Kebaowek First Nation, as the lawful owner of the premises, has been provided to the officer to enter the premises without a warrant.

In such circumstances, if the premises are locked or if a person occupying the premises refuses to grant entry, then an officer may use reasonable force to enter the premises without a warrant, including by removing or changing the locks or by breaking down the door or by seeking the assistance of another for these purposes.
31. An officer may remove or arrest without warrant any person found on or in the premises subject to an order of repossession if the officer believes on reasonable and probable grounds that the person is committing an offence under this by-law and that the arrest will prevent the continuation or repetition of the offence.
32. Nothing in this by-law precludes Kebaowek First Nation from pursuing any other enforcement or remedy provided for in any other agreement, law or by-law.
33. No officer or employee, agent, or elected member of Council shall be responsible for or bear or incur any liability for any action, omission, or alleged neglect arising out of or connected

with the performance or failure to perform any duty or action taken in good faith under this by-law, including actions to administer or enforce this by-law.

PART X - Penalty

34. Every person who contravenes any of the provisions of this by-law is guilty of an offence and is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding thirty (30) days, or to both.
35. A person commits an offence under this by-law if they assist or authorize another person to commit an offence under this by-law.
36. In addition to the penalties herein, every person who commits an offence under this by-law may also be subject to the following sanctions:
 - a) Termination of employment with Council or the band or with entities owned or controlled by Council or the band;
 - b) Denial of housing on the reserve;
 - c) Cancellation of any applications for housing under consideration;
 - d) Refusal by Council or the band and their affiliated institutions to do business with the offender;
 - e) Termination of any assistance of any kind by the band, including and not limited to programs and assistance offered pursuant to the *Housing Policies*;
 - f) Removal from the reserve.
37. In addition to all other penalties provided for in this by-law, any person causing damage or loss to any Kebaowek First Nation property and premises in application of this by-law will be responsible for the cost of repairing or replacing such damage or loss.

PART XI - General

38. The present by-law is adopted in English. The French version is a translation.
39. Unless the context otherwise clearly indicates, words used in the singular include the plural, the plural includes the singular, the neuter gender includes the masculine and the feminine, the masculine includes the feminine and the neuter and the feminine includes the masculine and the neuter.
40. Should a court determine that a provision of this by-law is invalid for any reason, the provision shall be severed from the by-law and the validity of the rest of the by-law shall not be affected.

41. Kebaowek First Nation may charge a person who requests a paper copy of this by-law the reasonable cost of printing incurred by such a request.

PART XII - Amendments


42. This by-law may be amended by the adoption of an amending by-law. Any amendments will come into force upon publication pursuant to section 86 of the *Indian Act*, R.S.C. 1985, c. I-5.

PART XIII - Effective Date

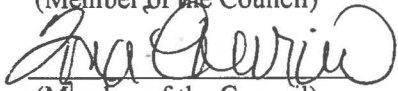
43. Following its adoption by Council, this by-law comes into force upon publication on the website of Kebaowek First Nation or in the First Nations Gazette pursuant to section 86 of the *Indian Act*, R.S.C. 1985, c. I-5.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Band this 17 day of March 20 26.

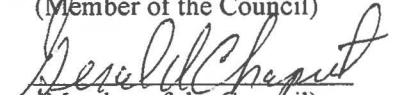
Voting in favour of the by-law are the following members of the Council:




(Member of the Council)



(Member of the Council)



(Member of the Council)



(Member of the Council)

being the majority of those members of the Council of the Band present at the aforesaid meeting of the Council.

The quorum of the Council is 3 members.