

ORIGINAL

Law No. 1997-2
Of the Algonquins of Golden Lake First Nation
A Law Governing the
Residence of Members and Other Persons
within the Golden Lake Reserve

WHEREAS the Council of the Algonquins of Golden Lake desires to make a law governing the residence of members and other persons on the Reserve;

AND WHEREAS the Council of the Algonquins of Golden Lake is empowered to make such law pursuant to paragraphs 81(1)(p.1), (q) and (r) of the Indian Act.

AND WHEREAS the Council believe it is the Algonquins inherent right to determine residency within their community;

AND WHEREAS it is considered necessary for the health and welfare of the Algonquins of Golden Lake to regulate the residence of members and other persons on the Reserve;

AND WHEREAS this Residency Law is an interim measure pending the development of a more comprehensive Residency Law which will include community consultation;

NOW THEREFORE, the Council of the Algonquins of Golden Lake hereby makes the following law:

1. Short Title

This law may be cited as the "Residency Law".

2. Interpretation:

In this Law

"Applicant" means a person who has submitted an application for permission to be a resident of the reserve in accordance with section 5.

"Child" includes a child born in or out of wedlock and a legally adopted child.

"Council" means the Council, as defined in the Indian Act, of the Algonquins of Golden Lake First Nation.

"Dependent" means a person under the age of 18 years who has not withdrawn from, or a person 18 years of age, or older, who is unable by reason of illness or disability to withdraw from the care and control of his/her parent or of his/her legal guardian.

“Dwelling” means any house, apartment, mobile home, or a room located therein, or any similar lodging suitable for habitation or being inhabited.

“Member of the Algonquins of Golden Lake” means a person whose name appears on the Algonquins of Golden Lake Membership List or who is entitled to have his name appear on the Algonquins of Golden Lake Membership List pursuant to the Membership Code of the Algonquins of Golden Lake.

“Officer” means any police officer, police constable or other person charged with the duty to preserve and maintain the public peace, and any law enforcement officer or other person appointed by the Council for the purpose of maintaining law and order on the Reserve.

“Principal Residence” means the place at which a person resides on a more permanent basis than at any other place at which the person may reside from time to time.

“Reserve” means the Golden Lake Indian Reserve No. 39.

“Reside” means to live in a dwelling, otherwise than as a visitor to the reserve.

“Resident” means a person who is entitled to reside on the Reserve, as provided by Section 3.

“Spouse” means a person who is married to, or who co-habits with a member, for more than one year in a conjugal relationship outside of marriage.

In this Law, reference to the masculine includes the feminine, and references to the singular includes the plural.

3. Entitlement to Reside on the Reserve

3.1 A person is entitled to reside on the reserve only if the person

- a) has his principal residence on the Reserve at the time this law comes into force and only until he ceases to have a principal residence on the Reserve; and
- b) is authorized to reside on the Reserve pursuant to one of the following provisions of the Indian Act: sections 18.1, 20 and 24 and subsections 28(2) and 58(3); or
- c) has the permission of the Registrar pursuant to section 6, or of the Council pursuant to Section 11, to be a resident on the Reserve.

- 3.2 A spouse or dependent child of a person who is entitled to reside on the Reserve under subsection 3.1, who actually resides with that person at or after the time the entitlement arises, is entitled to reside on the Reserve until such time as the spouse or dependent child ceases to reside on the Reserve, and such entitlement is independent of the entitlement of that person.
- 3.3 Notwithstanding Subsection 3.2, any spouse or dependent child of a person who has been granted permission to reside on the Reserve for a defined period is not entitled to reside on the Reserve after the end of that defined period.

4. Registrar of Residents

- 4.1 The Registrar shall be appointed by Council by resolution for a term specified in the resolution, and may be removed at any time during this term by Council resolution.
- 4.2 The Registrar shall not be a member of the Council or the Panel of Judges.
- 4.3 The Registrar of Residents shall maintain a Residents List, on which is recorded
- a) the name of each resident;
 - b) an indication as to whether each resident is a resident for an indefinite or defined period
 - c) the length of any defined period of residence, and
 - d) the location of each resident's dwelling.
- 4.4. The Registrar shall receive applications and make decisions in accordance with Section 6 on behalf of Council.

5. Application to be a Resident

- 5.1 Any person may apply to the Registrar for permission to be a resident of the Reserve or to extend any defined period for which permission was previously granted to be a resident of the Reserve.
- 5.2. The application shall be filed with the Registrar of Residents and shall include:
- a) the applicant's reasons for applying to be a resident;
 - b) if the applicant proposes to reside on the Reserve for a limited time, the approximate duration of the proposed residence;
 - c) the location at which the applicant proposes to reside;
 - d) the name of the applicant's spouse, if any;
 - e) the names of the applicant's dependent children, if any; and
 - f) any additional information the applicant wishes to provide relating to the considerations listed in subsection 6.2.

6. Decision

- 6.1 Within ninety (90) days after the filing of a properly completed application, the Registrar shall make a decision with respect to the application.
- 6.2 In determining whether an application for permission to be a resident of the Reserve should be granted, the Registrar shall take into consideration each of the following:
- a) that the applicant must be a spouse or dependant of a Member of the Algonquins of Golden Lake;
 - b) whether the applicant has arranged for a place to reside on the Reserve.
 - c) whether the applicant's residing on the Reserve would be compatible with the culture, society and community and welfare of the members residing on the Reserve;
 - d) whether the applicant is of good moral character;
 - e) the extent to which the applicant is prepared to commit his personal and economic resources to the welfare and advancement of the community;
 - f) the availability within the Reserve of adequate housing, land and services;
 - g) whether the applicant is or will be employed on the Reserve;

Note: An exception to a) may be considered if the applicant's residing on the Reserve would benefit the Community through that applicant's employment to assist in the revival and promotion of our Algonquin language, culture, society and community values.

- 6.3 Where the applicant is a member of the Algonquins of Golden Lake, the Registrar shall consider only the criteria enumerated in paragraphs 6.2 b) and f).
- 6.4 Within ten (10) days after the decision, the Registrar shall dispose of the application by
- a) granting the applicant permission to be a resident of the Reserve for an indefinite period until such time as the applicant ceases to reside on the Reserve;
 - b) granting the applicant permission to be a resident of the Reserve for a defined period;
 - c) extending any defined period for which permission was previously granted to the person by the Council or by the Registrar to be a resident of the Reserve; or
 - d) refusing the application,

and shall give written notice of his decision to the applicant, incorporating reasons in support of his decision.

- 6.5 Within five (5) days after disposing of the application, the Registrar shall post a notice of his decision in the Administration Office.
- 6.6 Any member applicant whose application is refused under this section may appeal to the panel of Judges pursuant to Section 11.

7. Reapplication

- 7.1 Where an application made under Section 5 is refused pursuant to the provisions of Section 6, the Registrar is not required to consider any further application by that person for a period of one (1) year from the date of the refusal, unless the applicant can show that there has been a material change of circumstances.

8. Enforcement

- 8.1 An officer may order any person who is residing on the Reserve, who does not have permission, to cease to reside on the Reserve.
- 8.2 Where a person who has been ordered under subsection 8.1 to cease to reside on the Reserve fails or refuses to do so within thirty (30) days after the order is made under subsection 8.1, an officer may issue a further order prohibiting the person from being on or re-entering the Reserve for a period of sixty (60) days.
- 8.3 Any person who fails or refuses to comply with an order made under subsection 8.2 commits an offence.
- 8.4 Everyone who assists a person who has been ordered to cease to reside on the Reserve, to continue to reside on the Reserve commits an offence.

9. Revocation of Entitlement to Reside

- 9.1 On the petition of any ten (10) resident members of the Algonquins of Golden Lake, the Council may revoke the entitlement of any person to reside on the Reserve who is referred to in section 3, other than a member of the Algonquins of Golden Lake or a person referred to in paragraph 3.1(b), where, after a hearing, it has been shown that
- a) the person, while a resident on the Reserve, has been convicted of an indictable offence under the Criminal Code (Canada) for which a pardon has not been granted; or
 - b) the person, within any period of two years while residing on the Reserve, has committed two (2) or more offenses under the Criminal Code (Canada), against the person or property of another resident, for which he has been convicted and for which a pardon or pardons have not been granted; or
 - c) that it would be detrimental to the best interest of the Reserve to permit the person to continue to be a resident of the Reserve.
- 9.2 A petition shall not be considered under this section in respect of a resident who, at the time of the petition, is under the age of sixteen (16) years.
- 9.3 No revocation of a resident's entitlement to reside on the Reserve shall affect the entitlement of the spouse and children of that resident to continue to reside on the Reserve.
- 9.4 A petition for revocation shall be dealt with under Section 11.

10. Panel Of Judges

- 10.1 The Council shall appoint a Panel of Judges, consisting of three (3) members of the Algonquins of Golden Lake, to hear appeals pursuant to Sections 6 and 9 and to make recommendation to Council.
- 10.2 Any recommendation of the Panel of Judges requires the support of at least two (2) Judges.
- 10.3 The Panel of Judges shall make rules of procedure governing appeals for Chief and Council approval, and shall keep records of its proceedings.

11. Appeals

- 11.1 Within thirty (30) days after the posting of a notice of the Registrar's decision in the Administration Office, the applicant in the case of Section 6, or the affected resident in the case of Section 9, may appeal the decision to the panel of Judges by filing a written request with the Registrar of Residents that the Panel of Judges hear the appeal.
- 11.2 Within thirty (30) days after the filing of the request, the Panel of Judges shall conduct a hearing with respect to the appeal.
- 11.3. At least fourteen (14) days prior to the date of the hearing, the Registrar of Residents shall
- a) give written notice to the appellant and/or petitioners of the date, time and place of the hearing and shall inform the appellant and/or petitioners that they must appear and make oral or written submissions, or both, at the hearing in support of the case; and
 - b) post in the Administration office a copy of the notice.
- 11.4 At the hearing, the Panel of Judges shall
- a) provide the appellant and/or petitioners with an opportunity to present evidence and to make oral or written submissions, or both, in support of the appeal or petition; and
 - b) provide any resident present at the hearing with the opportunity to be heard.
- 11.5 After it has heard all of the evidence and submissions, the Panel of Judges shall meet in private to consider the appeal.
- 11.6 In determining whether an appeal should be allowed, the Panel of Judges shall take into consideration the criteria set out in subsections 6.2 and 6.3 in the case of a section 6 appeal and the criteria set out in Section 9 in the case of a petition for revocation.
- 11.7 The Panel of Judges shall give written recommendation to the Council.

12. Final Decision

12.1 Any revocation of entitlement of a person to reside on the Reserve shall require quorum of the Council voting in favour of the petition and shall incorporate written reasons in support thereof.

12.2 Within twenty (20) days after the Council has received the recommendations referred to in subsection 11.7, the Council shall dispose of the application by

- a) granting the applicant permission to be a resident on the Reserve for an indefinite period until such time as the applicant cease to reside on the Reserve;
- b) granting the applicant permission to be a resident of the Reserve for a defined period;
- c) extending any defined period for which permission was previously granted to the person by the Council to be a resident on the Reserve; or
- d) refusing the application.

12.3 Within five (5) days after disposing of the application, the Council shall post a notice of its decision in the Administration Office.

13. Penalties

13.1 Any person who contravenes any of the provisions of this law commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars (\$1,000.00) or to imprisonment for a term not exceeding thirty (30) days, or both.

THIS LAW IS HEREBY enacted at a duly convened meeting of the Council of the Algonquins of Golden Lake this 9th Day of December 1997.

Voting in favour of the law are the following members of the Council

Mons Kabuka

Douglas Benoit

George Tominer

Sam Bernard

of the Algonquins of Golden Lake present at the aforesaid meeting of the Council