

BY-LAW NO. _____
OF THE ALEXIS NAKOTA SIOUX NATION
A BY-LAW GOVERNING THE RESIDENCE OF
BAND MEMBERS AND OTHER PERSONS ON
THE ALEXIS NAKOTA SIOUX NATION

WHEREAS the Council of the Alexis Nakota Sioux Nation desires to make a By-law governing the observance of law and order, the prevention of disorderly conduct and nuisances, and the residence of Band members and other persons on the reserve;

AND WHEREAS it is considered to be in the best interests of the Alexis Nakota Sioux Nation to create and maintain a safe zone for the health, welfare and integrity of the Alexis Nakota Sioux Nation, its members and other residents;

AND WHEREAS the Alexis Nakota Sioux Nation entered into a Community Tripartite Agreement for the Use of the Royal Canadian Mounted Police (RCMP) First Nations Community Policing Services;

AND WHEREAS the Council of the Alexis Nakota Sioux Nation is empowered to make such a Bylaw pursuant to paragraphs 81 (1) (c), (d) (p.l), (q) & (r) of the Indian Act (See Appendix I.A);

AND WHEREAS nothing in this By-law shall deem to alter, diminish, derogate or abrogate Treaty number 6, including the spirit and intent of our Treaty Rights and the inherent right as understood by the Elders of Treaty 6.

NOW THEREFORE the Council of the Alexis Nakota Sioux Nation hereby makes the following By-law:

1.0 SHORT TITLE

1.1 This By-law may be cited as "*The Alexis Nakota Sioux Nation Residency By-law*".

2.0 INTERPRETATION

2.1 In this By-law:

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

"RBEC" means Residency By-Law Enforcement Committee

"child", includes a child born in or out of wedlock and a legally adopted child;



"Council" means the Chief and Council, as defined in the *Indian Act*;

"ANSN" means the Alexis Nakota Sioux Nation;

"dwelling" means any house, apartment, mobile home, or room located therein or any similar lodging suitable for habitation;

"member" means a person whose name appears on the ANSN Membership list or who is entitled to have his/her name appear on the ANSN Membership list pursuant to the membership code of the ANSN;

"minor" means any person under the legal age of eighteen (18) in the province of Alberta;

"non-member" means any person who's name does not appear on the ANSN Membership List, or who is not entitled to have their name appear on the ANSN Membership List;

"officer" means any police officer, police constable or other person charged with the duty to preserve and maintain the public peace, and a By-law enforcement officer or any other person appointed by the Council for the purpose of maintaining law and order;

"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;

"RCMP" means the Royal Canadian Mounted Police;

"IIG" Impartial Independent Group

"Reserve" means the ANSN lands;

"reside" means to live in a dwelling, otherwise than as a visitor to the ANSN;

"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 in a relationship of some permanence and commitment, akin to a conjugal relationship, with a resident.

3.0 ENTITLEMENT TO RESIDE ON RESERVE AS OF MEMBERSHIP RIGHTS

3.1 A person is entitled to reside on the reserve only if the following criteria are met:

(a) has his/her principal residence on the reserve at the time this By-law comes into force;



(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); (See Appendix 1 A)

3.2

(1) Any non-resident 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.

(2) Notwithstanding (1), in the event that an individual wishes to reside on the ANSN after the expiration of the defined period, the individual may be eligible to reapply for residence.

4.0 RESIDENCY BY-LAW ENFORCEMENT COMMITTEE

4.1 Council shall appoint a Residency By-Law Enforcement Committee ("RBEC") comprised of 5 members to provide for the administration of applications and petitions made under this By-law and to maintain records related to residents.

4.2 The RBEC shall meet at least once every month.

4.3 The role of the RBEC shall include:

(a) identifying policing issues and concerns on the ANSN Community and bring them to the attention of the RCMP;

(b) working with the RCMP to develop the objectives, priorities, goals and strategies;
and

(c) identifying and deciding on residency issues on the reserve including the residence status of violent offenders, former residents and non-members.

4.4 The RBEC shall maintain a Residents List, on which is recorded:

(a) the name of each resident and proper identification;

(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;

(d) the location of each resident's dwelling;

(e) whether the resident is a Treaty Indian or a Non-Treaty Indian;



(f) records of all applications.

5.0 APPLICATION TO BE A RESIDENT

5.1 Any person may apply to the RBEC for permission to be a resident or to extend any defined period for which permission was previously granted to the person by the RBEC as appointed by Council to be a resident.

5.2 The application shall be filed with the RBEC 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;
- (f) any additional information the applicant wishes to provide relating to the considerations listed in subsection 7(2);
- (g) criminal records check from RCMP;

6.0 HEARING

6.1 Within thirty (30) days after the filing of a properly completed application prepared pursuant to 5.0, the RBEC shall hold a hearing with respect to the application.

6.2 At least fourteen (14) days prior to the hearing, the RBEC shall:

- (a) give written notice to the applicant of the date, time and place of the hearing and inform the applicant that he/she may appear at the hearing and make representations and present evidence in support of the application; and
- (b) post in the Band Administration office a copy of the notice.

6.3 At the hearing, the RBEC shall:

- (a) provide the applicant with an opportunity to present evidence and to make oral and written submissions, or both, in support of the application;
- (b) Provide any member present at the hearing with an opportunity to be heard.



6.4 The RBEC may make additional rules of procedure governing the hearing of applications and shall keep records of its proceedings.

7.0 DECISION

7.1 After it has heard all of the evidence and submissions, the RBEC shall meet in private to consider the application under Section 5.0.

7.2 In making its decision, the RBEC shall take into consideration each of the following:

- (a) whether the applicant has arranged for a place to reside on the reserve;
- (b) whether the applicant's residing on the reserve would be compatible with the culture, society and community of the Band and welfare of the members of the Band residing on the reserve;
- (c) whether the applicant is of good moral character;
- (d) the extent to which the applicant is prepared to commit his/her personal and economic resources to the welfare and advancement of the community residing on the reserve;
- (e) the availability on the reserve of adequate housing, land and services;
- (f) whether the applicant is or will be employed on the reserve;
- (g) a criminal records check.

7.3 Where the applicant is a member, the RBEC shall consider only the criteria enumerated in Section 3.0

7.4 Within ten (10) days after the hearing, the RBEC shall notify the applicant, or the offender, in writing of their decision by:

- (a) granting the applicant permission to be a resident 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 for a defined period;
- (c) extending any defined period for which permission was previously granted to the person by the RBEC to be a resident; or
- (d) determining the application is denied.



- 7.5 Within five (5) days after the RBEC has given the applicant or the offender as the case may be, their decision. The RBEC shall also post a notice of its decision in the Band Administration office.
- 7.6 Any applicant whose application is refused under this section may appeal to Council pursuant to section 13.

8.0 REAPPLICATION

Where an application made under section 5 is refused pursuant to the provisions of section 7, the RBEC is not required to consider any further application by that person for a period of one (1) year or indefinitely as may be determined by the RBEC or Council.

9.0 SPECIAL EMERGENCY HEARINGS:

- 9.1 The RBEC or Council shall hold a special emergency hearing where:
- (a) a resident has been asked to leave a residence, been evicted by a tenant or a marriage or common law union has broken down, and seeking permission to continue to reside on the reserve and has made application for a special emergency hearing;
 - (b) two (2) or more members of the RBEC have requested a special emergency hearing to consider taking action with respect to a resident who has been charged with a violent offence or a drug related offence under the *Criminal Code of Canada* which may put the safety and security of the residents, or visitors to the reserve, at risk (an "offender").
- 9.2 At least forty-eight (48) hours prior to a special emergency hearing, the RBEC shall:
- (a) give written notice to the applicant or the offender, whatever the case may be, of the date, time and place of the hearing and inform the applicant or offender that he/she may appear at the hearing and make representations in support of his/her position; and
 - (b) Post in the Band Administration office a copy of the notice.
- 9.3 At the special emergency hearing, the RBEC shall:
- (a) provide the applicant or offender, whatever the case may be, with an opportunity to present evidence and to make oral and written submissions, or both, in support of their position at the hearing; and
 - (b) provide any resident present at the hearing with an opportunity to be heard.



- 9.4 Where an offender under 9.1(b) is a minor who is in the legal care or custody of a resident within the Alexis Nakota Sioux Nation Housing Authority, the parent(s) and or legal guardian(s) as well as the offender may appear before the RBEC at the special emergency hearing;
- 9.5 After the conclusion of the special emergency hearing, the RBEC shall meet in private to discuss the evidence and arguments presented in the special emergency hearing.
- 9.6 If the RBEC concludes that the applicant under 9.1(a) is law abiding, that there are available accommodations, and that their continued residence on the reserve is not detrimental to the best interests of ANSN, the RBEC may permit the person to continue to reside on the reserve.
- 9.7 If the RBEC concludes that an offender under 9.1(b) has in fact been charged with a violent offence or a drug related offence under the *Criminal Code of Canada* which may put the safety and security of the residents, or visitors to the reserve, at risk and has not received a pardon or record suspension for that crime, the RBEC may do one or more of the following:
- (a) refuse to provide housing, including but not limited to eviction from any band owned housing; and/or
 - (b) banish the offender for a period of time to be determined by the RBEC, up to and including permanent banishment;
 - (i) Any banishment of a resident shall require a quorum of the RBEC, voting in favor of the petition and shall incorporate written reasons in support thereof.
- 9.8 Within five (5) days of the special emergency hearing, the RBEC shall notify the applicant or the offender, whatever the case may be, of its decision in writing. The decision shall also be posted in the Band Administration office.
- 9.9 The RBEC may make rules of procedure governing the hearing of petitions under this section and shall keep records of its proceedings.
- 9.10 Any offender or applicant, whatever the case may be, may appeal a decision under this section to Council under Section 12.

10.0 PETITIONS

- 10.1 On the petition in writing of any resident including a detailed outline as to an with a violent offence or a drug related offence under the *Criminal Code of Canada* which may put the safety and security of the residents, or visitors to the reserve, at risk committed by another resident for which a pardon or a record suspension has not been granted, the RBEC may holding a hearing for the banishment of a resident.



- 10.2 Within thirty (30) days after the petition referred to in subsection 11.1 is received by the RBEC, the RBEC shall hold a hearing into the matter.
- 10.3 At least fourteen (14) days prior to the hearing, the RBEC shall:
- (a) give written notice to each petitioner and to the affected resident of the date, time and place of the hearing and informing the petitioner and the affected resident that he/she has to appear at the hearing and can be heard;
 - (b) Post in the Band Administration office a copy of the notice.
- 10.4 At the hearing, the RBEC shall:
- (a) provide each petitioner and the affected resident with an opportunity to present evidence and to make oral and written submissions, or both, on the petition;
 - (b) Provide any member present at the hearing with an opportunity to be heard.
- 10.5 The RBEC may make rules of procedure governing the hearing of petitions under this section and shall keep records of its proceedings.
- 10.6 After it has heard all of the evidence and submissions, the RBEC shall meet in private to consider the petition.
- 10.7 Any banishment of a resident shall require a quorum of the RBEC, voting in favor of the petition and shall incorporate written reasons in support thereof.
- 10.8 Within ten (10) days after the hearing, the RBEC shall render its decision in writing to the petitioner(s) and the affected resident(s).
- 10.9 Within five (5) days after the RBEC's decision, the RBEC shall post a notice of the decision in the Band Administration office.
- 10.10 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.
- 10.11 A resident whose entitlement to reside on the reserve has been revoked by the RBEC under this section may appeal the decision of RBEC to the Council under section 12.

11.0 APPEALS BODY

- 11.1 IIG will hear all appeals and shall appoint 1 (one) or 2 (two) Elders to assist in hearing appeals and to make recommendations to IIG.
- 11.2 Any recommendations from the Elders will be given strong consideration in IIG's decision making process.



11.3 IIG may make rules of procedure governing the hearing of appeals and shall keep records of its proceedings

12.0 APPEALS

12.1 Within thirty (30) days after the posting of a notice of the RBEC's decision in the Band Administration office, the applicant in the case of section 6, or the affected resident in the case of section 11, may appeal the RBEC's decision to Council by filing a written request with the RBEC that Council hear the appeal.

12.2 Within thirty (30) days after the filing of the request, IIG shall conduct a hearing with respect to the appeal.

12.3 At least fourteen (14) days prior to the date of the hearing, IIG shall:

(a) give written notice to the appellant of the date, time and place of the hearing and shall inform the appellant that he/she has to appear and can make oral or written submissions, or both, at the hearing in support of the appeal. Written submissions or any documentation must be submitted to the appeals committee seven (7) days prior to the hearing;

(b) post in the Band Administration office a copy of the notice.

12.4 At the hearing, IIG shall:

(a) provide the appellant with an opportunity to present evidence and to make oral or written submissions, or both, at the hearing in support of the appeal;

(b) provide any member present at the hearing with the opportunity to be heard.

12.5 After it has heard all of the evidence and submissions, IIG shall meet in private to consider the appeal.

12.6 In determining whether an appeal should be allowed, IIG shall take into consideration the criteria set out in subsections 6 (2) in the case of a section 6 appeal, and the criteria set out in subsection 11 (1) in the case of a section 11 appeal

12.7 IIG shall give written notice of its decision to the appellant by:

(a) granting the applicant permission to be a resident 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 for a defined period;

(c) extending any defined period for which permission was previously granted to the person by IIG to be a resident of the reserve; or

(d) refusing the application.



- 12.8 Within five (5) days after notifying the applicant, IIG shall post a notice of its decision in the Band Administration office.

13.0 POWERS OF THE OFFICER & ENFORCEMENT

- 13.1 An officer who finds an individual who is or, in the absence of evidence to the contrary, appears to be residing on the reserve contrary to this By-law or a decision of the RBEC or Council under this By-law, may order the individual to be removed.
- 13.2 Any person who fails or refuses to comply with an order made under Section 10.1 commits an offence and is subject to applicable penalties.
- 13.3 Anyone who assists a person who has been ordered to cease to reside on the reserve, to continue to reside on the ANSN commits an offence.
- 13.4 It is acknowledged and agreed by Council and the members that an officer as defined in section 2.1, has full and sufficient authority to enforce this By-law to the best of his / her ability.

14.0 SEVERABILITY

- 14.1 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.

15.0 PENALTIES

- 15.1 Any person who contravenes any of the provisions of this By-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 to both a fine and imprisonment.

16.0 AMENDMENTS

- 16.1 These By-laws can only be amended by a quorum of Chief and Council at a duly convened meeting after all three (3) readings have been passed



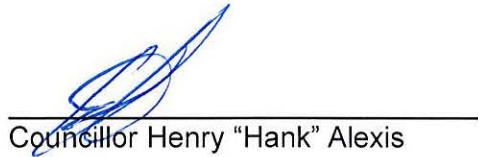
THIS BY-LAW IS HEREBY made at a duly convened meeting of the Chief and Council of the Alexis Nakota Sioux Nation this 22nd day of OCTOBER, 2015.



Chief Clayton "Tony" Alexis



Councillor Elizabeth Letendre



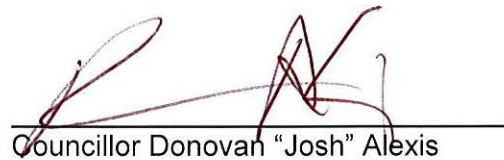
Councillor Henry "Hank" Alexis



Councillor Willard Alexis



Councillor Erwin "Dino" Letendre



Councillor Donovan "Josh" Alexis



Councillor Pearl Potts



Councillor Corrine Potts

being the majority of those members of the Council of the Alexis Nakota Sioux Nation present at the aforesaid meeting of the Council.

The quorum of the Council is 5 members.

Number of members of the Council present at the meeting; 7 / 8.

I, Clayton "Tony" Alexis, Chief of the Alexis Nakota Sioux Nation, do hereby certify that a true copy of the foregoing By-law was mailed to the Minister of Indian Affairs and Northern Development at the District/Regional/Hull office pursuant to subsection 82(1) of the Indian Act, this 22nd day of October, 2015



Witness



Councillor

