

RESIDENCY BY-LAW

BY-LAW # 1999-03

of the

Ojibways of Sucker Creek

Being A By-Law

for the

RESIDENCY RESTRICTIONS

on the

Sucker Creek First Nation

WHEREAS, the Council for the Ojibways of Sucker Creek desires to establish a by-law provide for the removal and punishment of persons trespassing on the reserve or frequenting the reserve for prohibited purposes;

AND WHEREAS, the Council for the Ojibways of Sucker Creek is empowered to make such a by-law pursuant to paragraphs 81(1) (p.1), (q) and (r) of the Indian Act;

AND WHEREAS it is deemed to be expedient and necessary, for the benefit, comfort and safety of the inhabitants of the Ojibways of Sucker Creek to provide for the removal and punishment of persons trespassing on reserve lands or frequenting the reserve for prohibited purposes;

NOW THEREFORE, the Council for the Ojibways of Sucker Creek hereby makes the following By-Law.

Ojibways of Sucker Creek

Residency By-Law

1. **SHORT TITLE:**

This By-Law may be cited as the "Ojibways of Sucker Creek Removal of Trespassers By-Law".

2. **INTERPRETATION**

In this By-Law

"*Band*" means the Ojibways of Sucker Creek;

"*Council*" means the Council, as defined in the Indian Act, of the Ojibways of Sucker Creek;

"*Member of the Band*" means a person whose name appears or is entitled to have his/her name appear on the Ojibways of Sucker Creek Band Membership List pursuant to the Indian Act or the membership rules of the Band.

"*Officer*" means any police officer, police constable or other person charges with the duty to preserve and maintain the public peace, and any by-law enforcement officer or other person appointed by the Council for the purpose of maintaining law and order on the reserve pursuant to By-Law Number _____ Relating to Law and Order.

"*Reserve*" means the Ojibways of Sucker Creek numbers 23 and 180..

"*Trespass*" means the entry onto, or the presence on, the reserve by a person without lawful justification.

3. **PROHIBITED PURPOSES**

i. A person, other than a person referred to in subsection (2), who conducts or is suspected of conducting on the reserve any of the following activities, namely:

- a) hunting, fishing, or trapping;
- b) hawking, or peddling of wares and merchandise;
- c) loitering;
- d) soliciting financial assistance;
- e) any illegal activity.

- ii. A spouse or dependent child of a person who is entitled to reside on the reserve under Subsection (1); who actually resides with that person at or after the time of entitlement arises, is entitled to reside on the reserve, and such entitlement is independent of the entitlement of that person.
- iii. Notwithstanding Subsection (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

- i. The Council shall appoint a Registrar of Residents to provide for the administration of applications, petitions and appeals made under this by-law and to maintain records to the residents of the reserve.
- ii. The Registrar of Residents shall maintain a Residents Lists 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.

5. APPLICATION to be a RESIDENT

- i. Any person may apply to the Council for permission to be a resident of the reserve or to extend any defined period for which permission was previously granted to the person by the Council to be a resident on the reserve.
- ii. 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 Section 7 (2)

6. HEARING

- i. Within ninety (90) days after the filing of a properly completed application, the Council shall hold a hearing with respect to the application.
- ii. At least fourteen (14) days prior to the hearing, the Registrar Resident shall:
 - a) give written notice to the application of the, time and place of the hearing and inform the applicant that he/she has the right to appear at the hearing and be heard in support of the application; and
 - b) post in the Administration office a copy of the notice.
- iii. At the hearing, the Council 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; and
 - b) provide any resident present at the hearing with an opportunity to be heard.
- iv. The Council may make rules of procedures governing the hearing of applications and shall keep records of its' proceedings.

7. DECISION

- i. After it has heard all of the evidence and submissions, the Council shall meet in private to consider the application.
- ii. In determining whether an applications for permission to be a resident of the reserve should be granted, the Council 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 personal and economic resources to the welfare and advancement of the community residing on reserve;
 - e) the availability on the reserve of adequate housing, land and services; and
 - f) whether the applicant is or will be employed on the reserve.

Ojibways of Sucker Creek**Residency By-Law**

- iii. Where the applicant is a member of the Band, the Council shall consider only the criteria enumerated in paragraphs (2) a) and e).
- iv. Within ten (10) days after the hearing, the Council 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 of time;
 - c) extending any defined period for which permission was previously granted to the individual by the Council to be a resident of the reserve; or
 - d) refusing the application,...and shall give written notice of its' decision to the applicant, incorporating reasons in support of its decision.
- v. Within five (5) days after disposing of the applications, the Council shall post a notice of its' decision in the Administration Office.
- vi. Any applicant whose application for residency is refused under this sections, may appeal to the Residency Committee pursuant to Section 12.

8 RE-APPLICATION

Where an application made under Section 5, is refused pursuant to the provisions of Section 8, the Council 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.

9. ENFORCEMENT

- i. An officer may order any person who is residing on the reserve, and who is not a resident, to cease to reside on the reserve.
- ii. Where an individual who has been ordered under subsection (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 (1), an officer may issue a further order prohibiting the individual from being on or reentering the reserve for a period of sixty (60) days.

- iii. Any individual who fails or refuses to comply with an order made under Subsection (2), commits an offence.
- iv. Everyone who assists an individual who has been ordered to cease to reside on the reserve, to continue to reside on the reserve commits an offence.

10. REVOCAION of ENTITLEMENT to RESIDE

- i. On the petition of any ten (10) residents, the Council may revoke the entitlement of any individuals to reside on reserve who is referred to in Section 3, other than a member of the band or an individual referred to in Paragraph 3 (i) b), where, after a hearing, it has been shown that:
 - a) the individual, while a resident of 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 individual, within any period of two years while residing on the reserve, has committed two (2) or more offences under the Criminal Code (Canada), against a person or property of another resident, for which he/she has been convicted and for which a pardon or pardons have not been granted;

... and that it would be detrimental to the best interests of the Band to permit the person to continue to be a resident of the reserve.
- ii. Within thirty (30) days after the petition referred to in Subsection (1) is received by Council, the Council shall hold a hearing into the matter.
- iii. At least fourteen (14) days prior to the hearing, the Registrar of Resident 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 has a right to appear a the hearing and to be heard; and
 - b) post in the Administration Office a copy of the Notice.
- iv. At the hearing the Council shall:
 - a) provide each petitioner and the affected individual with an opportunity to present evidence and to make oral and written submissions, or both, on the petition; and
 - b) provide any resident present at the hearing with an opportunity to be heard.

Ojibways of Sucker Creek

Residency By-Law

- v. The Council may make rules of procedure governing the hearing of petitions under this section and shall keep records of its proceedings.
- vi. After it has heard all of the evidence and submissions, the Council shall meet in private to consider the petition.
- vii. Any revocation of entitlement of an individual to reside on the reserve shall require a special majority of three-quarters (¾) of the Council voting in favour of the petition and shall incorporate written reasons in support thereof.
- viii. Within ten (10) days after the hearing, the Council shall render its' decision in writing to the petitioners and affected residents.
- ix. Within five (5) days after the Council's decision, the Council shall post a notice of the decision in the Administration Office.
- x. 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.
- xi. 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 reserve.
- xii. 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.
- xiii. A resident whose entitlement to reside on the reserve has been revoked by the Council under this section may appeal the decision of Council to the Residency Committee pursuant to section 12.

11. RESIDENCY COMMITTEE

- i. The Council shall appoint a Residency Committee, consisting of five (5) Band Members of the Ojibways of Sucker Creek, to hear appeals pursuant to Sections 7 and 10, and to make recommendations to the Band Council.
- ii. Any recommendations of the Residency Committee requires the support of at least three (3) Committee Members.

Ojibways of Sucker Creek**Residency By-Law**

- iii. The Residency Committee may make rules of procedures governing appeals and shall keep records of its' proceedings.

12. APPEALS

- i. Within thirty (30) days after the posting of a notice of the Council's decision in the Administration Office, the applicant in the case of Section 7, or the affected resident in the Case of Section 10, may appeal the Council's decision to the Residency Committee by filing a written request with the Registrar of Residents that the Residency Committee hear the appeal.
- ii. Within thirty (30) days after the filing of the request, the Residency Committee shall conduct a hearing with respect to the appeal.
- iii. At least fourteen (14) days prior to the date of the hearing, the registrar of Residents shall:
 - a) give written notice to the appellant of the date, time and place of the hearings and shall inform the appellant that he/she has the right to appear and make oral or written submissions, or both, at the hearing in support of the appeal; and
 - b) post in the Administration Office a copy of the notice.
- iv. At the hearing, the Residency Committee shall:
 - a) provide the appellant with an opportunity to present evidence and to make oral and or written submissions, or both in support of the appeal; and
 - b) provide any resident present at the hearing with the opportunity to be heard.
- v. After it has heard all the evidence and submissions, the Residency Committee shall meet in private to consider the appeal.
- vi. In determining whether an appeal should be allowed, the Residency Committee shall take into consideration the criteria set out in Subsections 7 (ii) and (iii), in the case of a Section 7 appeal, and the criteria set out in Subsection 10 (i) in the case of a Section 10 appeal.
- vii. Within ten (10) days after hearing the appeal, the Residency Committee shall make written recommendations to the Council.
- viii. The Residency Committee shall give written notice of its' decision to the appellant.

13. FINAL DECISION

i. Within ten (10) days after the Council has received the recommendations referred to in subsection 12 (xii), the Council 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 individual by the Council to be a resident of the reserve; or
- d) refusing the application,

...and shall give written notice of its' decision to the applicant.

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

14. PENALTIES

Any individual 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 both.


Ojibways of Sucker Creek

Residency By-Law

THIS RESIDENCY BY-LAW
 is hereby enacted at a duly convened meeting
 of the Band Council
 for the
 Ojibways of Sucker Creek
 this
7 day of Sept, 1999.

Voting in favour of the Residency By-Law


 Chief Diane Abotossaway


 Councillor Craig Abotossaway


 Councillor Marvin Assinewai


 Councillor Terry Abotossaway


 Councillor Patsy Corbiere

I, Chief Diane Abotossaway, do hereby certify that a true copy of the foregoing by-law was mailed to the Minister of Indian Affairs and Northern Affairs, pursuant to Subsection 82 (1) of the Indian Act, this 7 day of Sept, 1999.


 Chief Diane Abotossaway


 Witness/Councillor



Chronological no. -
1066
File reference no. -

NOTE: The words "from our Band funds", "capital" or "revenue", whichever is the case, must appear in all resolutions requesting expenditures from Band funds.

The Council of the					Cash free balance
Ojibways of Sucker Creek					Capital account
					\$ _____
Date of duly convened meeting	D	M	Y.	Province	Revenue account
	2	8	0 6 9 9		\$ _____

DO HEREBY RESOLVE:

RESIDENCY BY-LAW

WHEREAS, the Council for the Ojibways of Sucker Creek desires to establish a by-law governing the Residence of Band Members and other persons on reserve lands;
AND WHEREAS, the Council for the Ojibways of Sucker Creek is empowered to make such a by-law pursuant to paragraphs 81(1) (p.1), (q) and (r) of the Indian Act;
AND WHEREAS it is deemed to be expedient and necessary, for the benefit, comfort and safety of the inhabitants of the Ojibways of Sucker Creek to regulate the residence of Band Members and other persons on reserve lands;
THEREFORE, the Council for the Ojibways of Sucker Creek hereby makes the following By-Law:

Quorum _____

_____ (Chief)

_____ (Councillor)

_____ (Councillor)

_____ (Councillor)

_____ (Councillor)

_____ (Councillor)

_____ (Councillor)

FOR DEPARTMENTAL USE ONLY					
Expenditure	Authority (Indian Act Section)	Source of Funds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue		Expenditure	Authority
Recommending officer - Signature _____ Date _____			Recommending officer - Signature _____ Date _____		
Approving officer - Signature _____ Date _____			Approving officer - Signature _____ Date _____		