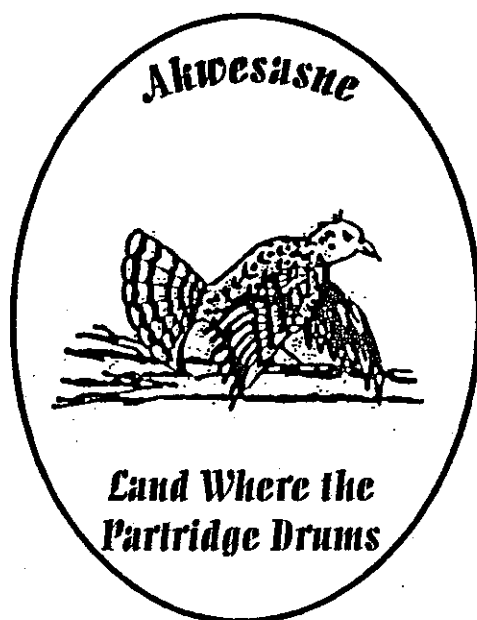


Akwesasne Wolf Belt

Mohawk Territory of Akwesasne



Akwesasne Residency Law

As passed by Mohawk Council Resolution
1997/1998 - 60

May 22, 1997

AKWESASNE RESIDENCY LAW

PURPOSE

The following Law represents one of the measures adopted by the community and the Mohawk Council of Akwesasne to control the residency of non-members within the Territory of Akwesasne in order to preserve its culture, traditions and values. The community wishes that only those who are registered members of Akwesasne shall have the **right** to reside permanently on the Territory. However, the community is prepared to extend the **privilege** of temporary residency to non-members, under certain conditions. This Law shall govern such privilege.

TITLE

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1. This Law shall be called the *AKWESASNE RESIDENCY LAW*.

INTERPRETATION

2. In this Law:

“**Akwesasne Membership Code**” is the community Law that exercises the inherent right of the Mohawk Community in Akwesasne to determine its own membership;

“**Applicant**” means a non-member who is applying for residency under this Law;

“**Authority**” means a Petitioner that has been authorized by Council to issue specific Occupancy Licences;

“**Council**” means the Mohawk Council of Akwesasne;

“**Council of Elders**” is a body of community Members created by the Akwesasne Membership Code;

“**Designated Area**” means those areas on the Territory of Akwesasne identified by a Resolution of Council as being available for residency through a Lease Agreement;

“**Lease Agreement**” means a written contract between Council, as Landlord or Landlord’s agent, and a non-member for the right to occupy land in a designated area;

"Member" means a person who is so designated by the Akwesasne Membership Code;

"Membership Board" is a body of community Members created by the Akwesasne Membership Code and for the purposes of this Law must have a quorum of not less than five (5) Members;

"Membership Clerk" means that person designated by a Resolution of Council to receive applications for Residency Permits;

"Non-member" means a person who is not a member;

"Notice of Denial" means that written notice to an applicant indicating that their application for residency under this Law has been denied;

"Notice of Revocation" means that written notice to a non-member resident indicating that their privilege to reside in Akwesasne has been revoked;

"Occupancy Licence" means restricted permission from an Authority to reside on the Territory of Akwesasne;

"Onkwehonwe" means a person who is registered in the Akwesasne Membership list or whose mother or father is/has been registered on the Akwesasne or any other First Nations Membership list;

"Permission to Lease Permit" means that written permit given by the Territorial Clerk, authorizing an Applicant to negotiate a Lease Agreement;

"Petitioner" means any Akwesasne educational institute, health, social recreational or other recognized organization wishing to become an Authority under this Law;

"Regulations" means the document, duly passed by Resolution of Council, that contains the provisions to administer this law;

"Reside" means to be a Resident;

"Residency Permit" means that written permit given by the Membership Board authorizing an Applicant to reside on the Territory of Akwesasne;

“Resident” means a person who has the legal right or privilege to live permanently, temporarily or occasionally on the Territory of Akwesasne;

“Territorial Clerk” means that person designated by a Resolution of Council to receive applications for Permission to Lease Permits;

“Territory of Akwesasne” means that geographic area over which the Mohawk Council of Akwesasne has jurisdiction.

GENERAL PROVISIONS

3. Every member has the right to reside on the Territory of Akwesasne.
4. Non-members cannot reside on the Territory of Akwesasne for more than thirteen (13) days in any thirty (30) consecutive day period unless they:
 - (i) have a Residency Permit, or
 - (ii) are a Tenant under a Lease Agreement, or
 - (iii) have an Occupancy Licence.
5. a) Any Resident non-member may benefit from educational or social services offered in the Territory of Akwesasne where funding policies so authorize and that funds are available.
b) This section does not apply to anyone who is not Onkwehonwe.
6. Any person who knowingly provides residency to a non-member who has not complied with section 4. is guilty of an offence under this Law.
7. This Law shall not contradict any of the provisions in the Akwesasne Membership Code.
8. The Residency Law No. 89-01, and previous Regulations and Council Resolutions with respect to the residency of non-members on the Territory of Akwesasne are repealed by this Law.
9. Any person, while on the Territory of Akwesasne, must obey the Laws and Regulations that govern it.
10. Any non-member's residency on the Territory of Akwesasne pursuant to a Lease Agreement with Council at the time of this Law is enacted, shall be deemed legally non-conforming.

11. Except as provided in section 10, any non-member's residency on the Territory of Akwesasne, pursuant to a contractual arrangement with Council or someone acting under its authority, shall terminate within six (6) months of the enactment of this Law, or the expiration date provided for in the contract, whichever date is earlier.

RESIDENCY PERMIT

THE APPLICATION

12. a) Any non-member wishing to reside on the Territory of Akwesasne must submit a completed application form for a Residency Permit, to the Membership Clerk, in accordance with the provisions provided in the regulations.
- b) Any person may apply to the Membership Clerk for a Residency Permit, on behalf of a non-member who is mentally and/or physically unable to apply personally, or is under the age of eighteen (18) years.
13. Section 12 does not apply to any non-member who wishes to reside on the Territory of Akwesasne under a Lease Agreement or Occupancy Licence.

NOTICE OF APPLICATION

14. a) The Membership Clerk shall place a notice of any Application for a Residency Permit in at least one community newspaper by providing:
- i) the Applicant's name; and
 - ii) deadline date to receive representations concerning the application.
- b) The notice in section 14.a) must be given at least five (5) days prior to the deadline date, in order to give individuals the opportunity to advise the Membership Clerk that they wish to make representations to the Membership Board.

THE INVESTIGATION

15. a) Before the Membership Board considers an Application for a Residency Permit, the Membership Clerk shall verify the contents of the application form in accordance with the provisions provided in the regulations.

b) The Membership Clerk shall provide a Report to the Membership Board of any additional information obtained in the verification of the contents of the Application.

APPLICANT INTERVIEW

16. a) In considering an Application, the Membership Board may require a meeting with the Applicant to answer questions relevant to the Application.
- b) The meeting under section 16.a) shall be conducted in accordance with the provisions provided in the regulations.

HEARING

17. a) In considering an application the Membership Board may decide to hold a hearing to consider further information relevant to the Application.
- b) If the Membership Board decides to hear representations from individuals who have requested to be heard on the application, it shall notify them of the date of the hearing.
- c) A hearing under this section shall be conducted in accordance with the provisions provided in the regulations.

THE DECISION

18. a) Any decision of the Membership Board shall be by majority vote of the quorum.
- b) The Membership Board may adjourn any Hearing in order to make a decision.
19. The successful Applicant shall be issued a Residency Permit for a specific period that does not exceed twelve (12) months.

DENIED APPLICATIONS FOR RESIDENCY PERMIT

20. An Applicant who is denied a Residency Permit, shall be informed in person or by Registered Mail, by being provided with a Notice of Denial with reasons.

21. a) An Applicant must leave the Territory of Akwesasne within forty-eight (48) hours after receiving a Notice of Denial.
- b) The period provided for in section 21.a) and 21.d) may be extended to not more than thirteen (13) days.
- c) Unless the decision of the Membership Board is under Appeal to the Council of Elders, any Applicant that remains in the Territory of Akwesasne, beyond the period provided in the Notice of Denial, may be charged by the Akwesasne Mohawk Police Service with Trespass and/or section 4.i) of this Law.
- d) If the Council of Elders determines that there are no grounds for the Appeal or, upon hearing the appeal, confirms the Notice of Denial, then the unsuccessful Applicant must leave the Territory of Akwesasne within forty-eight (48) hours after receiving the decision of the Council of Elders.
- e) Any Applicant that remains in the Territory of Akwesasne beyond the period provided for by the Council of Elders may be charged by the Akwesasne Mohawk Police Service with Trespass and/or section 4 i) of this Law.

RENEWAL OF RESIDENCY PERMIT

22. Any non-member wishing to continue residing on the Territory of Akwesasne beyond the expiry date of their current Residency Permit, must re-apply for a Residency Permit.

PUBLICATION OF DECISIONS

23. Any decision made by the Membership Board, Council of Elders or the Mohawk Court of Akwesasne, with respect to an Application for a Residency Permit, shall be published in at least one community newspaper.

ANNUAL RESIDENCY PERMIT REPORT TO COUNCIL

24. On or before March 31 in each year, the Membership Board shall provide the Mohawk Council of Akwesasne with a written report listing all non-members residing in the Territory of Akwesasne under a Residency Permit (including the expiry date), and the identity of any applicants who have been denied, or whose Residency Permits have been revoked by the Board.

RESIDENCY BY A LEASE AGREEMENT

THE APPLICATION

25. a) Any non-member wishing to enter into a Lease Agreement, must submit a completed application form to the Territorial Clerk for a Permission to Lease Permit in accordance with the provisions provided in the regulations.

b) Any person may apply for a Permission to Lease Permit on behalf of a person who is mentally ill and/or physically unable to apply in person, or is under the age of eighteen (18) years.
26. Council shall not enter into a Lease Agreement with any non-member who has not been issued a Permission to Lease Permit.
27. Any non-member whose Lease Agreement with Council has expired, shall re-apply for a Permission to Lease Permit.

THE INVESTIGATION

28. a) Before issuing a Permission to Lease Permit, the Territorial Clerk shall conduct an investigation of the Applicant, in accordance with the provisions provided in the regulations.

b) The successful Applicant shall be issued a non-transferable Permission to Lease Permit to enter into Lease Agreement negotiations with Council.

c) In the event a Lease Agreement has been entered into, the Territorial Clerk shall re-investigate the Applicant at least every three (3) years, in accordance with the provisions provided in the regulations.

d) Upon completion of the investigation conducted under section 28 c), the Territorial Clerk may request a Hearing under section 38 (ii).

DENIED APPLICATIONS FOR PERMISSION TO LEASE PERMIT

29. An Applicant who is denied a Permission to Lease Permit shall be given a Notice of Denial, with reasons, in person or by Registered Mail.

LEASE REPORT

30. Council shall advise the Membership Clerk of any Lease Agreement that it has entered into with anyone who has been issued a Permission to Lease Permit.

RESIDENCY BY OCCUPANCY LICENCE

PETITION TO COUNCIL

31. Any educational institute, health, social, recreational or other organization or facility recognized by Council, wishing to provide shelter to non-members must petition Council for a Resolution authorizing the Petitioner to issue Occupancy Licenses.
32. Any Mohawk Council Resolution that grants a Petitioner the authority to issue Occupancy Licenses, must contain:
 - i) the terms and conditions under which an Occupancy Licence may be issued; and
 - ii) an expiry date for such authority, that does not exceed twelve (12) months.

THE APPLICATION

33.
 - a) Any non-member wishing to reside on the Territory of Akwesasne under an Occupancy Licence must apply to the Authority.
 - b) Any person may apply to the Authority for an Occupancy Licence, on behalf of a non-member who is mentally and/or physically unable to apply personally, or is under the age of eighteen (18) years.

ISSUANCE OF THE OCCUPANCY LICENCE

34. The successful Applicant shall be issued a non-transferable Occupancy Licence for a period that does not exceed twelve (12) months.
35. There is no Appeal from the approval or denial of an Application for an Occupancy Licence.

OCCUPANCY LICENCE REPORT

36. a) The Authority shall provide the Membership Clerk with a current list of all non-members who have been issued an Occupancy Licence.
- b) The Authority may instruct the Membership Clerk to keep the identities confidential of any non-member who has been issued an Occupancy Licence.

REVOCATION OF RESIDENCY

37. A Residency Permit, Lease Agreement or Occupancy Licence may be revoked if the non-member has:
- i) been convicted in Canada with an indictable offence, or in the United States with a felony; or
 - ii) been convicted of two (2) or more lesser offences against the property or person of a Member; or
 - iii) breached community customs or values; or
 - iv) breached community standards of conduct; or
 - v) been a consistent disruptive force in the community; or
 - vi) provided false information on any application under this Law.

PROCEDURE FOR REVOCATION OF RESIDENCY

38. a) A non-member's privilege to be a resident may be reconsidered pursuant to section 37 by written request for a Hearing to:
- i) the Membership Board in the case of a Residency Permit; or
 - ii) the Council in the case of a Lease Agreement; or
 - iii) the Authority in the case of an Occupancy Licence.
- b) A hearing under section 38.a) shall be conducted in accordance with the provisions provided in the regulations.

NOTICE OF REVOCATION

39. A non-member whose residency has been revoked shall be given a Notice of Revocation, with reasons, in person or by Registered Mail.
40. a) A non-member whose privilege of residence has been revoked, must leave the Territory of Akwesasne within forty-eight (48) hours after receiving the Notice of Revocation.

- b) The periods provided for in section 40a) and section 40 d), may be extended to not more than thirteen (13) days.
- c) Unless the revocation is under Appeal to the Council of Elders, any non-member who remains on the Territory of Akwesasne beyond the period provided for in the Notice of Revocation, may be charged by the Akwesasne Mohawk Police Service with Trespass and/or section 4 of this Law.
- d) If the Council of Elders determines that there are no grounds for the appeal, or confirms the Notice of Revocation, issued pursuant to section 39, then the non-member must leave the Territory of Akwesasne within forty-eight (48) hours after receiving the decision of the Council of Elders.
- e) Any non-member who remains on the Territory of Akwesasne beyond the period provided for by the Council of Elders may be charged by the Akwesasne Mohawk Police Service with Trespass and/or section 4 of this Law.

PUBLICATION OF DECISIONS

41. The Membership Board, Council or Authority shall publish in at least one community newspaper the particulars of any revocation of residency of a non-member.

APPEALS

42. Unless otherwise provided, any matter determined pursuant to this Law including decisions of Akwesasne Mohawk Court, may be appealed to the Council of Elders in accordance to the provisions provided in the regulations.
43. Any decision of the Council of Elders is final.

PENALTIES

44. Any non-member found to be on the Territory of Akwesasne in violation of section 4 is liable to be charged for trespass.
45. Unless otherwise provided for in this Law, an Akwesasne Mohawk Police Officer who, on reasonable and probable grounds, believes that a person has contravened any of the provisions contained in sections 4, 6, 9, 21.a) and e), and 40 may arrest, without warrant, the person believed to have committed the contravention.

46. Any violations of this Law shall be heard in the Akwesasne Mohawk Court.
47. a) Anyone found guilty of any violation under this Law shall be liable to:
- i) a fine of not more than five thousand (\$5,000) dollars; and/or
 - ii) a term of imprisonment for not more than ninety (90) days; and/or
 - iii) a term of community services not more than 500 hours; and/or
 - iv) an order of expulsion.
48. An order of expulsion shall be executed by the Akwesasne Police Services within 24 hours of the receipt of such an order by the Court.

REGULATIONS

49. a) Council or it's delegate, from time to time, may make such forms, permits, lease agreements, terms and conditions, licences, and Regulations, and set such fees, as are considered appropriate for the proper administration of this Law.
- b) Nothing pursuant to section 49.a) shall be valid unless confirmed by a Resolution of Council.
- c) Council may amend any Resolution made under section 49.b) by further Resolution.

AMENDMENTS

50. Subject to section 51, this Law may be amended upon:
- a) A motion made by one of the Chiefs of Council, setting out the proposed amendment and supported by a majority of Council; or
 - b) A petition presented to Council by at least 150 eligible voters, setting out the proposed amendment.
51. No amendment made pursuant to section 50 is valid until:
- a) appropriate notice of the proposed amendment is given to the community in the local media; and

- b) eligible voters are consulted at community information meetings;
and
- c) the proposed amendments have been accepted by a majority of
eligible voters voting at a General Meeting.

RL/5/22/97