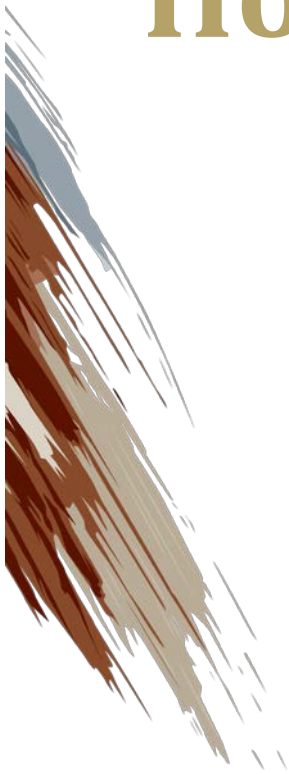




FORT MCKAY
FIRST NATION

Community Housing Law



COMMUNITY HOUSING LAW

FORT MCKAY FIRST NATION

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WHEREAS the Council, in consultation with Membership, has identified certain housing objectives in long term strategic plans and initiatives; and

WHEREAS the First Nation desires to assure to its Members, sustainable quality community housing and seeks to achieve that objective by:

Operating within First Nation budgets;

Building and maintaining residential premises that meet or exceed National Building Code standards; and

Establishing rules and procedures that will assure equitable distribution of housing resources based on objective criteria;

NOW THEREFORE THE COUNCIL OF FORT MCKAY FIRST NATION ENACT AS FOLLOWS:

Part 1 Interpretation

1 Definitions

1.1 In this Law:

- (a) “Council” means the Chief and Council elected to public office pursuant to the Election Code of Fort McKay First Nation as amended or replaced from time to time;
- (b) “Disabled” means, in respect of a Member, that the Member suffers from a severe illness or condition (excluding addictions to alcohol, drugs, or other substances) that prevents the person from pursuing any substantially gainful occupation and provided that the Member has provided one of the following:
 - (i) certification in the prescribed form, of a diagnosis by a qualified medical professional with all relevant and material information respecting the condition outlined within the certification; or
 - (ii) confirmation from the responsible governmental department or the Member’s insurer confirming that:
 - A. the Member is a recipient of Assured Income for the Severely Handicapped or any replacement income program operated by the Province of Alberta;
 - B. the Member is a recipient of Canada Pension disability benefits; or
 - C. the Member is receiving long term disability benefits under a policy of insurance;
- (c) “Elder ” means a Member who is 60 years of age or older;
- (d) “Family” means a spouse including a common law spouse and all persons who are members of one’s immediate family including a child, father, mother, brother, sister, or grandparent;
- (e) “First Nation” means the body of persons comprising the Fort McKay First Nation recognized by Her Majesty the Queen in right of Canada as a band as defined in the *Indian Act*, R.S.C. 1985, c. I-5, as amended and any successor to the First Nation;
- (f) “First Nation Entity” means a related business corporation or other legal entity which is owned or controlled, in whole or in part, by the First Nation;
- (g) “Grant of Tenancy” means conferral of a right to enter into a Rental Agreement for a Tenancy in respect of a Housing Unit;

- (h) “Housing Manager” means the person appointed by the Chief Executive Officer to administer Housing Units under this Law and includes any person delegated authority to act by the Housing Manager;
- (i) “Housing Unit” means a dwelling unit owned by the First Nation which is used for community housing purposes and includes:
 - (i) a manufactured or mobile home;
 - (ii) a manufactured home pad;
 - (iii) multi-residential premises such as a duplex, triplex, or fourplex; and
 - (iv) detached single family homes;but does not include any hotel, motel, resort, lodge accommodation, cottage, cabin, campground, or other facility operated by the First Nation or a First Nation Entity as temporary accommodation for persons who are not Members or any other premises prescribed by Council as excluded from the application of this Law;
- (j) “Landlord” means, in respect of a Tenancy under this Law, the First Nation as represented by the Housing Manager;
- (k) “Member” means a person admitted to membership or citizenship with the First Nation pursuant to the Fort McKay First Nation Membership Code as amended or replaced from time to time;
- (l) “Overholding Tenant” means a person who was a Tenant and who does not vacate the Housing Unit after the Tenancy has been terminated;
- (m) “Principle Residence” means the place that is that Member’s home, where the Member sleeps, takes meals, and keeps their household effects and personal property, notwithstanding any short term absences for work or other reasonable excuse;
- (n) “Rent” means the consideration to be paid by the Tenant to the Landlord under the terms of a Rental Agreement but does not include a Security Deposit;
- (o) “Rental Agreement” means the written contract signed by the Tenant and the Landlord governing the occupancy of a Housing Unit and all Rental Agreements shall be deemed to be on the basis of a month to month tenancy;

- (p) “Served on the Tenant” means that the notice or other document is:
- (i) personally delivered to the Tenant;
 - (ii) left with an adult person at the Housing Unit; or
 - (iii) posted to the door of the Housing Unit;
- (q) “Substantial Breach” means a Tenant’s failure to fulfill one or more fundamental terms of a Rental Agreement, including refusal to sign an updated Rental Agreement and the payment of Rent, and includes a series of failures in respect of non-fundamental terms, the cumulative effect of which is substantial;
- (r) “Security Deposit” means an amount of money given by the Tenant to the Landlord:
- (i) to be held by the Landlord as security for the performance of the Tenant’s obligations under a Rental Agreement; and
 - (ii) to be returned, in whole or in part, to the Tenant upon the termination of a Tenancy and fulfilment of the Tenant’s obligations under a Rental Agreement.
- (s) “Suitable Size Accommodation” means that the occupancy in respect of a Housing Unit does not exceed two persons for each bedroom in the Housing Unit;
- (t) “Tenancy” means the period of time which:
- (i) commences on the day that the Rental Agreement has been signed, the Security Deposit and first month’s Rent has been paid, and the keys have been delivered to the Tenant; and
 - (ii) ends on the day:
 - A. the Landlord and Tenant agree to terminate the Tenancy;
 - B. the Landlord reasonably believes the Tenant has repudiated or abandoned the Tenancy; or
 - C. the Landlord or the Tenant has terminated the Tenancy by giving notice as prescribed by this Law;
- (u) “Tenant” means:

- (i) a Member that has been given permission by the Landlord to occupy a Housing Unit under a Rental Agreement;
- (ii) where the context so requires, a member of the Family of the person described in subsection (i) who resides in the same Housing Unit;

2 Principles of Construction

- 2.1 This Law shall be construed as being remedial and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.
- 2.2 Headings form no part of the enactment, but shall be construed as being inserted for convenience of reference only.

3 Conflicts of Law

- 3.1 This Law governs privileges that are intended to provide benefits to Members only and constitutes a right or freedom of an aboriginal people in respect of which no person who is not a Member may claim any right including the right not to be subjected to discrimination based on race, or national or ethnic origin pursuant to any law or statute of Canada or Alberta.
- 3.2 Without limiting the generality of section 3.1, any person who is not a Member but who has been granted limited rights of occupancy under this Law or through a Member who has been granted rights under this Law, is subject to all the obligations that apply to a Tenant under a Rental Agreement or this Law.
- 3.3 Without limiting the generality of section 3.1, all Members eligible for a Grant of Tenancy under this Law are entitled to have their application considered solely on the basis of the merits of their application and there shall be no discrimination against any applicant on the basis of family affiliation or any other irrelevant characteristic or factor.

4 Application of the Law

- 4.1 Notwithstanding any agreement or waiver to the contrary, this Law applies to all Housing Units and specially designated residential property on Fort McKay Lands to which a Member or any other person (including teachers and other employees of the First Nation who may be granted certain housing privileges) may apply for a right of temporary occupancy under a month to month tenancy.
- 4.2 All Tenancies which pre-date the enactment of this Law are hereby confirmed as Tenancies under this Law and shall continue subject to the provisions of the Law.

Part 2 Administration

5 Housing Manager

- 5.1 The Chief Executive Officer shall appoint a Housing Manager who shall be responsible for:
- (a) assessing Member applications and conferring Grants of Tenancy;
 - (b) preparing Rental Agreements and ensuring that all Tenants sign a Rental Agreement;
 - (c) receiving, depositing and maintaining proper records of Security Deposits;
 - (d) collecting, depositing, and maintaining proper records of Rents;
 - (e) ensuring that the Housing Units are maintained in good and tenantable repair;
 - (f) coordinating all repair and renovation work with the First Nation's responsible authority for capital works;
 - (g) ensuring all work in relation to Housing Units is completed within First Nation budgets;
 - (h) monitoring Tenancies and taking steps to terminate a Tenancy for Substantial Breach in accordance with the process set out in this Law;
 - (i) undertaking collection proceedings in respect of any defaulting Tenant;
 - (j) enacting subordinate policies and rules of procedure consistent with this Law; and
 - (k) doing such further or other things as may be reasonably necessary to administer this Law.

Part 3 Allocation of Housing Units

6 Subleasing Prohibited

- 6.1 A Grant of Tenancy may only be made for a Principle Residence and a Tenant may not sublease or assign a Rental Agreement or assign their rights under this Law. Any sublease or attempted assignment of a Rental Agreement made in contravention of this Law is void.

7 Restricted Rights and Exemptions

- 7.1 Subject to section 7.3, a Tenancy under this Law may only be granted to a Member who has attained the age of 18 years.
- 7.2 A Member may only seek a Grant of Tenancy for a Principle Residence and may not assign their rights under this Law. Any assignment of a Rental Agreement made in contravention of this Law is void.
- 7.3 Special exemptions allowing persons not otherwise qualified to enjoy tenancy rights may be granted under this Law by order of the Chief and Council in the following circumstances:
- (a) Where the exemption is of benefit to the First Nation in that it will provide a place of residence to a non-Member employee whose Principle Residence lies outside of a reasonable commuting distance to the First Nation;
 - (b) Where the Tenant is a mature minor who will qualify as a Tenant upon attaining the age of 18 years;
 - (c) Where it is in the best interests of one or more Members who are minors, including situations where the custodial parent has been divorced from or is separated from a Member who received the Grant of Tenancy but the non-Member was awarded custody of the children or, by agreement of the parties, is the custodial parent;
 - (d) Where the exemption is necessary to give effect to an order of a court of competent jurisdiction under the *Family Homes on Reserves and Matrimonial Interests or Rights Act*, S.C. 2013, c. 20 or any matrimonial laws enacted by the First Nation;
 - (e) Where the person was married to or resided with a Member who is now deceased in a relationship akin to marriage and the person:
 - (i) has family in the community; and
 - (ii) is acknowledged as a person who has contributed to the community; and
 - (f) Where the Council has determined that it is reasonable and just to allow the person to remain as a Tenant under this Law.

7.4 Notwithstanding section 7.3 nothing in this Law may be construed so as to require the Chief and Council to grant an exemption or to continue an exemption that has previously been granted.

8 Applications

8.1 A Member seeking a Grant of Tenancy under this Law must file a complete application in the prescribed form.

8.2 Every person who submits an application for a Grant of Tenancy shall provide, in the prescribed form, a consent to release information from:

- (a) a prior landlord; and
- (b) credit reporting agency.

8.3 Every person who submits an application for relief from the payment of Rent by reason of Disability must provide their consent to release the information required by section 1.1(b) and to cooperate fully in ensuring that the First Nation receives any information reasonably required to assess the Member's request.

8.4 Within 10 days of receipt of an application, the Housing Manager shall, in respect of each application for a Grant of Tenancy, advise the applicant that their application has been received, confirm that the applicant is a person qualified under section 7 and assess the completeness of the application.

8.5 An application which the Housing Manager determines has not been submitted by a person qualified under section 7 or which has been assessed as incomplete shall be returned to the applicant with a letter advising of the deficiencies and the Housing Manager shall not retain a record of the application.

9 Eligibility Assessment

9.1 An application which the Housing Manager determines is complete shall be assessed pursuant to this section

9.2 The Housing Manager shall make inquiries of former landlords and of credit reporting agencies as the Housing Manager, in an exercise of absolute discretion, considers necessary to confirm the information provided by an applicant.

9.3 All applications shall be assessed by the Housing Manager using the prescribed Points Assessment and ratings system.

9.4 If, upon making the inquiries described in section 9.2, the Housing Manager determines that the applicant has provided false or misleading information material

to the determination of an application, the Housing Manager shall mark the application as “rejected” and shall forward written confirmation of the rejection to the applicant within 30 days of the rejection.

9.5 Notwithstanding any other provision of this Law, if the Housing Manager determines that there are reasonable grounds to expect that a Grant of Tenancy may result in harm to the First Nation or to a Member, the Housing Manager may reject an application. Without limiting the Housing Manager’s discretion under this section, grounds for rejecting an application may include:

- (a) a reasonable belief that the applicant has been or may become involved in illegal activities including trafficking in drugs contrary to the *Criminal Code*, R.S. 1985, c. C-46 as amended, the *Controlled Drugs and Substances Act*, 1996, c. 19, as amended, or any other like legislation;
- (b) a reasonable belief that the applicant has been or may become involved in a violent crime including crimes involving the use of firearms or dangerous weapons;
- (c) a reasonable belief that the applicant has been or may become involved in gang related activities; or
- (d) Any other facts or circumstances upon which a reasonable person could conclude that the applicant would be disruptive to the peace of the community or unable or unwilling to fulfil the terms and conditions of a Rental Agreement or this Law.

9.6 If the Housing Manager rejects an application under section 9.5, the Housing Manager shall mark the application as “rejected” and forward written confirmation of the rejection and the reasons for the rejection to the applicant, within 30 days of the rejection.

9.7 The Housing Manager shall, in respect of all accepted applications, prioritize all current applications, in accordance with the following:

- (a) the Suitable Size Accommodation for the applicant;
- (b) the number of points allocated to the applicant; and
- (c) the date of the application;

such that the applicants are sorted into lists for the Suitable Size Accommodation for the applicant and that all applicants for such accommodation are ranked according to their Points Assessment and application seniority.

- 9.8 Within 30 days of the receipt of the application, the Housing Manager shall forward a copy of the Points Assessment to the applicant and:
- (a) confirm that the applicant's name has been added to the list for Suitable Size Accommodation; and
 - (b) advise the applicant of the date upon which the application will become void pursuant to section 24.
- 9.9 In the event that Housing Units become available for occupation, the Grant of Tenancy shall be determined as follows:
- (a) all applicants in respect of which the available Housing Unit constitutes Suitable Size Accommodation will be placed on a short list; and
 - (b) generally, those applicants with the highest number of points allocated by the Housing Manager will be awarded Grant of Tenancy for the available units.

Part 4 Tenancies

10 Inspection Reports

- 10.1 The Landlord and Tenant shall, within one week before or after the Tenant takes possession of a Housing Unit, complete an inspection report in the prescribed form.
- 10.2 Every Tenant shall receive a copy of the inspection report within 10 days of conducting the inspection.

11 Security Deposits

- 11.1 The Tenant shall provide a Security Deposit at the time a Rental Agreement is signed in an amount not to exceed the equivalent of one month's Rent.
- 11.2 All Security Deposits must be deposited to a separate account. It is not a requirement of this Law that accounts be interest bearing.
- 11.3 The Security Deposit must be returned to the Tenant upon the expiry or termination of the Tenancy except for an amount that:
- (a) the Tenant agrees to allow the Landlord to keep in compensation of Rent;
 - (b) the Tenant owes to the Landlord in respect of unpaid Rent or damages; or

(c) that the Tenancy Appeal Arbitrator has ordered the Landlord may retain.

12 Rental Agreements

- 12.1 All Tenancies shall be subject to this Law and in the event that a Rental Agreement conflicts with this Law, those terms or conditions of the Rental Agreement that are in conflict shall be void and the Law shall have precedence.
- 12.2 All Tenancies shall be subject to a written standard form of Rental Agreement in the prescribed form and all Grants of Tenancy shall require that the Tenant sign a Rental Agreement. The Housing Manager may require that a Tenant sign an updated Rental Agreement from time to time.
- 12.3 Every Tenant shall receive a copy of the Rental Agreement within 10 days of signing.
- 12.4 Without limiting the generality of section 12.2, Chief Executive Officer may establish different standard forms of Rental Agreements for use by different classes of persons in different circumstances, including special forms of Rental Agreement for Elders or Disabled.
- 12.5 All terms in a Rental Agreement must be reasonable. A term shall be considered reasonable if it is:
- (a) intended to promote fair distribution of services or facilities to Tenants;
 - (b) intended to promote the convenience, safety and welfare of Tenants;
 - (c) intended to protect the Landlord's property from abuse;
 - (d) reasonably related to the purpose for which it is intended; and
 - (e) sufficiently explicit to inform the Tenant of what the Tenant must do or not do in order to comply with it.
- 12.6 Rents shall be established by the Council as part of the annual budgeting process and shall be based on the following factors:
- (a) the total cost of maintaining all Housing Units;
 - (b) the cost of adding to the First Nation's inventory of Housing Units in accordance with Membership demands;
 - (c) the size, age, and condition of the particular Housing Unit; and

- (d) market conditions for rental accommodation in locations proximate to the First Nation.
- 12.7 Elders are exempt from the obligation to pay Rent, however, the coming into force of an exemption shall not be construed so as to extinguish or limit in any way the obligation of the Elder to pay any arrears of rent that accrued prior to the Elder obtaining rent exempt status under this Law;
- 12.8 Disabled are permitted a rebate or partial exemption from the obligation to pay Rent and Rent for Tenants who meet the Disabled criteria are based on the **lesser** of:
- (a) The amount of rent which would otherwise be payable on that Housing Unit; or
 - (b) Twenty (20%) percent of the Disabled Tenant's gross income.
- 12.9 Rebates or exemptions for Disabled Tenants are prospective only and do not extinguish or limit in any way the obligation of the Tenant to pay any arrears of rent that accrued prior to the Tenant providing proof of their Disabled status under this Law.
- 12.10 A Notice of Increase in Rent shall be in the prescribed form and shall be Served on the Tenant no less than 90 days prior to the new Rent taking effect.
- 12.11 All Rental Agreements shall be deemed to be for a month to month Tenancy.
- 12.12 No Rental Agreement is valid unless it has been made under this Law.

13 Landlord's Obligations

- 13.1 All Tenancies shall be subject to the following Landlord obligations:
- (a) that the Housing Unit will be reasonably fit upon the commencement of the Tenancy and will at least meet the minimum standards prescribed for housing premises under the *Alberta Public Health Act*, RSA 2000, P-37, as amended or replaced from time to time; and
 - (b) that the Landlord will not in any significant manner disturb the Tenant's possession or peaceful enjoyment of the Housing Unit.

14 Tenant's Obligations

- 14.1 All Tenancies shall be subject to the following Tenant obligations:

- (a) that the Rent will be paid on the first day of each and every calendar month during the Tenancy;
- (b) that the Tenant will obey all First Nation laws and keep the peace;
- (c) that the Tenant will not in any significant manner interfere with the rights of either the Landlord or of other Tenants;
- (d) that the Tenant will not perform any illegal acts or carry on an illegal trade, business or occupation in the Housing Unit;
- (e) that the Tenant will not do or permit significant damage to the Housing Unit;
- (f) that the Tenant will not make any improvements, renovations, or changes to the Housing Unit without the prior written consent of the Housing Manager;
- (g) that the Tenant will maintain the Housing Unit in a reasonably clean and safe condition;
- (h) that the Tenant will immediately report to the Landlord any damages or need for repairs for which the Landlord is responsible;
- (i) that the Tenant will not allow or use any illegal substances to be used or stored in the Housing Unit, including drugs prohibited by the *Controlled Drugs and Substances Act* or any other like legislation;
- (j) that the Tenant will maintain control at all times over any animals allowed to live on or near the Housing Unit including pets such as dogs or cats; and
- (k) that the Tenant will vacate the Housing Unit at the expiration or termination of the Tenancy.

15 Entry onto Premises

15.1 Except as otherwise permitted in this section, the Landlord may not enter a Housing Unit without the consent of the Tenant.

15.2 The Landlord may enter a Housing Unit without consent or notice if the Landlord has reasonable grounds to believe:

- (a) that an emergency requires the Landlord to enter the Housing Unit; or
- (b) the Tenant has abandoned the Housing Unit.

15.3 The Landlord may enter a Housing Unit upon providing notice for the purposes of:

- (a) conducting an inspection of the Housing Unit;
- (b) making repairs to the Housing Unit; or
- (c) taking any necessary steps to control pests.

15.4 The right to enter the Housing Unit pursuant to section 15.3 is contingent upon Serving the Tenant with notice:

- (a) in writing;
- (b) at least 24 hours before entry; and
- (c) stating the reason for the entry.

16 Locks

16.1 A Tenant may not change or add a lock on any door giving access to a Housing Unit without the consent of the Landlord.

16.2 A Landlord may only change or add a lock on any door giving access to a Housing Unit if:

- (a) the Tenant has consented and is provided a key immediately after the lock is added or changed; or
- (b) the Tenancy has expired or been terminated.

17 Termination by Landlord

17.1 If a Tenant commits a Substantial Breach or fails to comply with the Tenant's obligations under this Law, the Landlord may terminate the Tenancy by Serving the Tenant with a Notice of Termination in the prescribed form.

17.2 The Notice of Termination must be Served on the Tenant within the times specified below:

- (a) in respect of the Tenant's failure to pay Rent when due – 30 days;
- (b) in respect of a Tenant who has done or permitted significant damages to the Housing Unit - 24 hours;
- (c) in respect of a Tenant who has physically assaulted or threatened to physically assault a Housing Manager, another Tenant, or any other person representing the Landlord - 24 hours;

- (d) in respect of a Tenant who has breached a First Nation law causing adverse effect on the peace and order of the community including but not limited to engaging in conduct contrary to the Noise and Disturbance Bylaw or the Trespass Law – 24 hours; and
 - (e) in respect of any other Substantial Breach of the Rental Agreement or this Law – 30 days.
- 17.3 If the Notice of Termination served on the Tenant relies upon the failure to pay Rent when due, the Notice of Termination shall be ineffective if:
- (a) the Tenant pays all outstanding Rent before the termination date specified in the Notice of Termination; or
 - (b) the Landlord and the Tenant enter into an agreement to deal with outstanding Rent which specifies the remedies available to the Landlord if the Tenant defaults in meeting their obligations under the repayment agreement.
- 17.4 Subject to any appeals pursuant to Part 6, the Tenant shall give vacant possession of the Housing Unit upon the termination date specified in the Notice of Termination.
- 17.5 The Landlord and the Tenant shall, within one week after the Tenant has vacated the Housing Unit, complete an inspection report in the prescribed form.
- 17.6 Every Tenant shall receive a copy of the inspection report within 10 days of conducting the inspection.
- 17.7 If the Tenant does not agree to take part in the inspection, the Landlord may proceed to conduct the inspection and complete the inspection report, the accuracy of which shall be verified by either:
- (a) a third party who attends with the Housing Manager for the inspection and who signs the inspection report confirming that they agree with the representations of the Housing Manager; or
 - (b) photographs or videos of the Housing Unit taken by the Housing Manager at the time the inspection report is completed.
- 17.8 The Landlord may apply to the Tenancy Appeal Arbitrator for an order entitling the Landlord to forcibly remove any Overholding Tenant.

18 Notice to Vacate

- 18.1 The Landlord shall be entitled to require any person who is not a Tenant but who is living in a Housing Unit subject to a Tenancy, to vacate the Housing Unit by Serving the Tenant with a notice to remove a resident in the prescribed form.
- 18.2 The notice to remove a resident must be Served on the Tenant at least 10 days prior to the date the person is required to vacate the Housing Unit.
- 18.3 The Landlord may apply to the Tenancy Appeal Arbitrator for an order entitling the Landlord to forcibly remove any person living in a Housing Unit in contravention of this section.

19 Termination by Tenant

- 19.1 A Tenant may terminate a Tenancy by giving 30 days' notice in writing to the Landlord.

20 Abandonment of Housing Unit

- 20.1 Any Housing Unit which has been left vacant by a Tenant for more than 15 days shall be deemed to have been abandoned and the Tenancy terminated.
- 20.2 Notwithstanding section 20.1, a Tenant may apply to the Housing Manager for written authorization to allow a Housing Unit to remain vacant for more 15 days where the Tenant wishes to maintain the Tenancy but expects to be away from the First Nation for a period of time because they:
- (a) are attending an educational institution located off Reserve;
 - (b) are working at a location off Reserve; or
 - (c) are otherwise required to be away from the Reserve for legitimate family, educational, or business reasons.
- 20.3 A written authorization pursuant to section 20.2 may include a term that the Tenant arrange for proper care, maintenance, and ongoing regular inspections of the Housing Unit during their absence or that the Tenant pay additional fees to the First Nation to perform such services.

21 Abandoned Goods

- 21.1 Any goods left by a Tenant or any other person who has abandoned or vacated a Housing Unit or whose Tenancy has expired or been terminated may be stored or disposed of by the Landlord in accordance with this section.
- 21.2 If the abandoned goods have a market value of less than \$3,000, the Landlord may dispose of the goods in any manner the Landlord considers proper including disposing of such goods as waste.

- 21.3 If the abandoned goods have a market value of more than \$3,000, the Landlord may dispose of the goods by removing, storing and selling the goods and applying any proceeds to outstanding Rents, storage fees, or other charges.
- 21.4 If any amounts remain after the sale of goods and deduction for outstanding Rents or other charges, the balance shall be remitted to the Tenant.
- 21.5 The Landlord may apply to the Tenancy Appeal Arbitrator for advice and direction in respect of the disposition of any abandoned goods.
- 21.6 The First Nation, the Council, the Chief Executive Officer, the Housing Manager, and any other person acting for or on behalf of the Landlord shall have no liability in respect of any claim for loss or damage to abandoned goods dealt with according to this Law.

22 Frustration of a Tenancy

- 22.1 A Tenancy is frustrated and the respective obligations of the Landlord and Tenant cease, if:
- (a) the Housing Unit is destroyed;
 - (b) the Housing Unit is damaged to such an extent that a reasonable landlord would not repair the damages and a reasonable tenant would not be willing to remain as a tenant; or
 - (c) the Housing Unit is deemed unfit for habitation.

23 Rights of Set Off

- 23.1 The First Nation may set off and deduct, at any time, from any entitlement or payment including a per capita distribution payment otherwise due to a Tenant from the First Nation or any First Nation Entity, any amounts owed by the Tenant in respect of Rents, arrears of Rent, damages, or costs related to a Tenancy.

Part 5 Privacy

24 Retention Time

- 24.1 Unless other specified in this Law, personal information that has been gathered and used for the purposes of processing an application for a Grant of Tenancy shall be retained by the Housing Manager for a period of no more than 6 months following which it shall be destroyed by shredding.

24.2 The Housing Manager shall destroy any personal information gathered and used for the purposes of this Law, after the expiry of the 6 month period of time.

25 Disclosure

25.1 Personal information provided to the Housing Manager shall not, without the consent of the Member to whom it relates, be used by the First Nation or any agent of the First Nation except for the purposes set out in this Law or for a use consistent with the purposes of this Law.

Part 6 Appeals

26 Appeal Arbitration

26.1 Disputes arising from tenancy matters shall be referred to a Tenancy Appeal Arbitrator in accordance with this Part.

26.2 Appeals and all other applications shall be determined by the Tenancy Appeal Arbitrator on the basis of written materials only.

26.3 A Tenant who wishes to appeal an eviction or seek corollary relief in relation to an eviction must deliver their written notice of appeal together with any supporting documents to the Housing Manager no later than 24 hours following a Notice of Termination being Served on a Tenant.

27 Term of Office

27.1 The Tenancy Appeal Arbitrator shall be selected by the Chief Executive Officer and their appointment formally ratified by resolution of the Council for a term not exceeding 1 year and may be reappointed for additional terms to commence on the expiry of their appointment.

27.2 The Tenancy Appeal Arbitrator may resign by giving notice to the Chief Executive Officer.

27.3 The Tenancy Appeal Arbitrator shall be paid expenses, allowances and remuneration for his or her services as may be agreed to between the Appeal Arbitrator and the First Nation.

28 Jurisdiction

28.1 The Tenancy Appeal Arbitrator, shall have jurisdiction to hear and determine:

- (a) appeals respecting a claim that a Tenancy has been terminated without reasonable grounds by the Landlord;

- (b) a request for relief in the nature of a temporary suspension of a Tenancy obligation or stay of a Notice of Termination to allow the Tenant time to pay the rental arrears under reasonable terms and conditions; and
- (c) an application by the Landlord for an order requiring the Tenant give vacant possession.

28.2 All appeals shall be made in writing in the prescribed form.

28.3 The Tenancy Appeal Arbitrator may refuse to accept any complaint or appeal that is made more than 24 hours after the Tenant or Member knew, or in the opinion of the Tenancy Appeal Arbitrator ought to have known, of the action or circumstances giving rise to the appeal.

29 Independence

29.1 The Tenancy Appeal Arbitrator shall be independent of the parties before him or her and impartial as between them.

30 Consent Resolution

30.1 Notwithstanding any other part of this Law, the Tenancy Appeal Arbitrator may, where in the interest of settlement of the matter in dispute it is desirable to do so, deal with the parties on a without prejudice basis for the purposes of obtaining a consent resolution.

30.2 For the purposes of resolving the matter in dispute, the Tenancy Appeal Arbitrator may engage in efforts at settlement including mediation and any other non-binding dispute resolution process.

30.3 On application by a party to the dispute, the Tenancy Appeal Arbitrator may confirm a mediated settlement agreement issued under section 30.2 as a decision of the Tenancy Appeal Arbitrator.

31 Powers of the Tenancy Appeal Arbitrator

31.1 The Tenancy Appeal Arbitrator shall exercise powers and carry out duties with a view to preserving and enhancing the culture, identity, well-being of the First Nation.

31.2 Notwithstanding anything in this Law, the powers and duties of the Tenancy Appeal Arbitrator shall be exercised and performed in a manner consistent with natural justice and fairness and the jurisdiction conferred on the Arbitrator by this Law.

31.3 The Tenancy Appeal Arbitrator may control his or her own procedures and is entitled to:

- (a) receive appeals;
- (b) conduct any inquiries or investigations that he or she considers necessary;
- (c) make or issue any interim orders he or she considers necessary pending the final determination of a matter;
- (d) make or issue any orders he or she considers necessary to resolve the issues in dispute;
- (e) make rules:
 - (i) of procedure for the conduct of arbitrations under this Law;
 - (ii) for the giving of notice and the service of documents; and
 - (iii) for any other matters necessary to discharge the responsibilities of the Tenancy Appeal Arbitrator under this Law.

31.4 Decisions of the Tenancy Appeal Arbitrator are final and conclusive for all purposes and binding on both the Landlord and the Tenant, but the Tenancy Appeal Arbitrator may, at any time, reconsider any decision and vary, revoke or affirm the decision.

31.5 A decision or order of the Tenancy Appeal Arbitrator shall be considered an award pursuant to the Alberta *Arbitration Act*, RSA 2000, R-43 and may be enforced by Order of the Court of Queen's Bench of Alberta.

32 Evidence

32.1 For the purposes of this Law, the Tenancy Appeal Arbitrator may administer oaths.

32.2 The Tenancy Appeal Arbitrator:

- (a) may accept any relevant evidence whether admissible in a court of law or not; and
- (b) is not bound by the law of evidence applicable to judicial proceedings.

Part 7 General

33 Forms of Notice

33.1 Any notice required to be given under this Law must:

- (a) be in writing;
- (b) signed by the Housing Manager or another duly authorized agent of the Landlord;
- (c) identify the Housing Unit in respect of which the notice is given.

34 Regulations

34.1 The Council may, by Band Council Resolution, enact regulations under this Law to establish:

- (a) forms that may be used by Landlords or Tenants;
- (b) prescribing Rents;
- (c) appointing the Tenancy Appeal Arbitrator;
- (d) prescribing any rules or procedures binding on the Housing Manager or the Tenancy Appeal Arbitrator; and
- (e) providing for any other matter reasonably necessary to give effect to this Law.

APPROVED AND PASSED at a duly convened meeting of the Chief and Council of Fort McKay First Nation held at Fort McKay in the Province of Alberta this 29 day of November, 2017.



Chief Jim Boucher



Councillor Gerald Gladue




Councillor Peggy Lacorde



Councillor Crystal McDonald



Councillor Raymond Powder

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|---|-------------------------------------|----------------------|--------------------------------|------------------------|----------------------|
|  | | Site No.: | On & Off Reserve | Revision: | 2 |
| | Housing Operations | Doc #: | FMFN-LAW-COMMUNITY HOUSING-001 | Date Effective: | 11/29/17 |
| | | Policy Owner: | Admin Dept | Approved By: | C&C |
| Reference: | Document Type: Law | | | | Page 24 of 24 |
| | Title: Community Housing Law | | | | |

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