

FISHING LAKE METIS SETTLEMENT IN THE PROVINCE OF ALBERTA
LEAVE OF ABSENCE BY-LAW NO. FLMS 970099

A BY-LAW TO REGULATE THE RIGHTS OF MEMBERS OF THE FISHING LAKE
METIS SETTLEMENT WHO ARE ON A LEAVE OF ABSENCE.

AS Section 3 (a) of Schedule 1 to the Metis Settlements Act, S.A. 1990, c. M14.3 as amended authorizes a settlement council to make a by-law describing the circumstances when a settlement member who is on an authorized leave of absence is not considered to be a resident of the settlement area;

AS Section 234(1)(a) of the Metis Settlements Act, S.A. 1990, c. M14.3 as amended states that "if a settlement member is on an authorized leave of absence described in section 85, the member is a resident of the settlement area for all purposes, except as otherwise provided by bylaw";

AS Section 234(1)(b) of the Metis Settlements Act, S.A. 1990, c. M14.3 as amended states that "if clause (a) does not apply, residence is decided by applying whichever of the following rules is applicable, unless the matter is governed by a settlement bylaw";

AS Section 3 (d) of Schedule 1 to the Metis Settlements Act, S.A. 1990, c. M14.3 as amended authorizes a settlement council to make bylaws respecting those matters that may, by this or any other enactment, be subject to a settlement bylaw;

THEREFORE the Council and members of the Fishing Lake Metis Settlement enact as follows:

Definitions

1. In this by-law

"abandoned membership" means that,

(a) a member has failed to maintain a house or home furnished and maintained in a liveable manner within the Settlement area while on a leave of absence and has not renewed an authorized leave of absence as set out in Section 85(1) of the Act, or

(b) a member has applied for a conditional leave of absence to Council each year for seven consecutive years without re-establishing a residence within the Settlement area;

"agreement" means an agreement, between an operator, and, Council and the Metis Settlements General Council,

(a) for evaluating, exploring for, or developing, a non-renewable resource within the settlement area, or

(b) defining surface access for which a right of entry order may be made under Part 4

Division 7 of the Metis Settlements Act and specifying terms and conditions of compensation;

"compensation" means the money payable by an obligated operator to an occupant, or the Settlement,

(a) upon the execution and delivery of an agreement or right of entry order and includes money paid for special damages under the agreement or right of entry order, or

(b) periodically for access under an agreement or right of entry order and includes money paid in subsequent years under the agreement or right of entry order,

(c) for any arrears paid in respect of past special damages or access, or, pursuant to a pre-existing agreement or right of entry order

to compensate for the impact to land within the Settlement area of,

(a) evaluating, exploring for, or developing a non-renewable resource, or

(b) surface access;

"conditional leave of absence" means a leave of absence granted by Council under Section 85(2) of the Metis Settlements Act;

"Council" means the Fishing Lake Metis Settlement Council;

"member" means an individual who is a member of the Fishing Lake Metis Settlement;

"obligated operator" means, as defined in section 123(1) of the Metis Settlements Act, an existing mineral lease holder or an operator who is obligated to pay compensation under a surface lease, or who is obligated to pay compensation to an occupant under a compensation order;

"residence" means the house or home where a member resides for at least six months in a calendar year which is furnished and maintained in a liveable manner;

"resident member" means a member of the Settlement who has resided within the Settlement area for a minimum of 12 consecutive months;

"re-established resident member" means a member of the Settlement who has been on an authorized leave of absence and has re-established residence as defined within this bylaw;

"Settlement" means the Fishing Lake Metis Settlement, and

all other terms have the same meaning as in the Metis Settlements Act.

Regulations

2. (1) A member of the Settlement who is on an authorized leave of absence is not considered to be a resident member of the Settlement area for the purpose of,
 - (a) voting at any annual election, by-election, or public meeting of the membership;
 - (b) applying for or receiving Settlement supplied housing unless it is rental housing;
 - (c) applying for notice of available land posting.(2) A member of the Settlement who is on an authorized leave of absence is not considered to be a resident member of the Settlement for the purpose of receiving compensation from an obligated operator.
3. Eligibility for financial assistance under any Settlement program or project for a member on an authorized leave of absence is determined by current program or project policies.
4. (1) A re-established resident member has the same rights as a resident member.
 - (2) A member on an authorized leave of absence may become a re-established resident member by:
 - (a) re-establishing a residence within the settlement area and residing within the Settlement area for six consecutive months;
 - (b) reporting his or her re-establishment of a residence to the Lands and Membership department on the appropriate forms, attached as Schedule 1 and 2, that include
 - (i) the name of the member,
 - (ii) the date of re-establishment of residency in the Settlement area,
 - (iii) the legal survey description of the residence being used by the member,
 - (iv) an affidavit signed by the member before a Commissioner of Oaths stating that the member has re-established residence in the Settlement area, and
 - (v) if the member has re-established residence by co-habiting with a resident member, at least one affidavit signed by that resident member before a Commissioner of Oaths stating that the member has re-established residence in the

Settlement area.

5. If a member has abandoned membership as defined within this bylaw, Council shall cause a bylaw to be drafted and begin the process to terminate the membership as set out in Section 87 of the Act.

Records

6. The Lands and Membership department is responsible for keeping records of authorized leave of absence and re-establishment of residence reports.

Repeal

7. The Leave of Absence By-law FLMS 940061 is repealed.

Effective Date

8. This by-law comes into effect the day after it is given third reading.

READ a first time this 09 day of September, 1998 at a Regular Council meeting at which 3 Council members were present and voted as follows:
3 for; 0 against; 0 abstained.

READ a second time this 09 day of September, 1998 at a Regular Council meeting at which 3 Council members were present and voted as follows:
3 for; 0 against; 0 abstained.

APPROVED pursuant to section 55 of the Metis Settlements Act, at a Settlement public meeting this 24th day of February, 1999 at which 25 voting members were present and voted as follows:
17 for; 2 against; 1 abstained.

READ a third time and adopted this 2nd day of March, 1999 at a Regular Council meeting at which 3 Council members were present and voted as follows:
~~2~~ for; 0 against; 0 abstained.


Settlement Administrator [SEAL]

Approval Granted
Date: Mar. 3, 1999



SCHEDULE 1

AFFIDAVIT OF RE-ESTABLISHMENT OF RESIDENCY

Fishing Lake Metis Settlement

As per Fishing Lake Metis Settlement Leave of Absence By-Law No. ~~936055~~ **970299**

I, _____
(Print the name of the person making the affidavit)

of the _____ of _____
(Metis Settlement, Town or City) (Name of Place)

In the Province of _____, **MAKE OATH AND SAY:**

1. I have re-established my principal residence in the Fishing Lake Metis Settlement area as of _____, 19 ____ and

2. I am residing at _____ Section _____ Township _____ Range W4M.

2. I am residing at the residence of _____
(Name of land holder)
at _____ Section _____ Township _____ Range W4M.

SWORN before me

at the _____ of _____

In the Province of _____

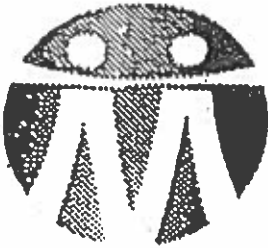
this _____ day of _____

(A Commissioner for Oaths in and for the Province of Alberta)

(Print Name)

(Signature of the Person making the affidavit)

My Commission expires _____



SCHEDULE 2

AFFIDAVIT OF RE-ESTABLISHMENT OF RESIDENCY

Fishing Lake Metis Settlement

As per Fishing Lake Metis Settlement Leave of Absence By-Law No. ⁹⁷⁰⁰⁹ 030038

I, _____
(Print the name of the person making the affidavit)

of the _____ of _____
(Metis Settlement, Town or City) (Name of Place)

In the Province of _____, **MAKE OATH AND SAY:**

1. _____
(name of person re-establishing residency)

is residing at my residence in the Fishing Lake Metis Settlement area at

_____ Section _____ Township _____ Range W4M as of _____, 19 ____.

SWORN before me

at the _____ of _____

In the Province of _____

this _____ day of _____

(A Commissioner for Oaths in and for the Province of Alberta)

(Print Name)

(Signature of the Person making the affidavit)

My Commission expires _____