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Grand Council of the Crees (Eeyou Istchee)
Grand Conseil des Cris (Eeyou Istchee)

ᐊᓕᐧᐣ ᑎᐯᓄᑎᒋᐊᓂ
Cree Nation Government
Gouvernement de la Nation Crie

Cree Nation Government

BYLAW 2014-33

2023 Consolidation of the By-Law Concerning the Regulation of Certain Buildings for the Protection of Public Health and Safety

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WHEREAS pursuant to the Cree-Naskapi (of Quebec) Act, the objects of the Cree Regional Authority, now the Cree Nation Government, are, among others, to act as a regional government authority on Category IA land and to regulate buildings used for the purposes of regional governance and housing situated on those lands;

WHEREAS pursuant to the Cree-Naskapi (of Quebec) Act, the Cree Nation Government may make by-laws respecting the regulation — for the protection of public health and safety —of buildings used for housing or for regional governance, including their construction, maintenance, repair and demolition;

WHEREAS the standards established in such by-laws of the Cree Nation Government must be at least equivalent in their effect to any standards established by federal or provincial laws of general application in respect of such matters;

WHEREAS, at this time, the Cree Nation Government wishes to adopt a by-law respecting the regulation — for the protection of public health and safety — of buildings for regional governance and for housing relating to regional governance in order to provide for the application of standards at least equivalent to federal and provincial standards in relation to such buildings, and with a view to expanding the application and content of this By-law in the future;

NOW THEREFORE the Cree Nation Government adopts this By-law, as follows:

PART I
GENERAL PROVISIONS

Division I SHORT TITLE

1. This By-law may be cited as the CNG Buildings By-law.

Division II INTERPRETATION

2. This By-law shall be interpreted in light of the laws and regulations in effect in the Province of Québec.

3. The Preamble shall form an integral part of this By-law.

4. In this By-law, the masculine includes the feminine, the singular includes the plural and vice versa.

5. Unless otherwise indicated, words and expressions in this By-law shall have the same meaning as in the Cree-Naskapi (of Quebec) Act.

6. For the purposes of this By-law:

   a) "Approved Plans and Specifications" means the plans and specifications for a given Capital Project prepared and certified by a Professional, and subsequently confirmed by the CNG to reflect its needs, pursuant to section 16, as duly modified pursuant to section 17, as the case may be;

   b) "By-law" means this CNG Buildings By-law;

c) "Capital Project" means a project relating to a building subject to this By-law that, due to its nature and scope, requires the preparation of plans and specifications, and which is described by the applicable Approved Plans and Specifications. A Capital Project includes all required construction works undertakings, activities and related services.

d) "Capital Works and Services" means the Capital Works and Services Department of the CNG;

e) "Certificate of Completion" means a written document signed and dated by the relevant Designated Professional which certifies that the Capital Project is completed in accordance with the Approved Plans and Specifications and is ready to be used for its intended purpose;

f) "Certificate of Substantial Performance" means a written document signed and dated by the relevant Designated Professional which certifies that the Capital Project is substantially completed in accordance with the Approved Plans and Specifications and is ready to be used for its intended purpose, except for the items specified in the certificate which remain to be completed or corrected;

g) "Construction Contract" means the agreement between the CNG and a Designated Contractor in relation to a given Capital Project, and in which a Designated Professional is identified, based on the Canadian Construction Documents Committee model for a stipulated price contract (CCDC-2), as amended from time to time, with necessary adaptations set forth in the supplementary conditions thereof to take into account the provisions of any CNG by-law, including this By-law and the CNG Construction Procurement By-law;

h) "Contractor" means a person holding all required licenses and authorizations to carry out, or to have carried out, the applicable construction work, undertaking or activity in the Province of Québec. The terra "Contractor" means the Contractor or the Contractor's authorized representative as designated to the CNG in writing;

i) "CNG Construction Procurement By-law" means the CNG By-law concerning the Procedures and Requirements relating to the Calling of Tenders and Awarding of Construction Contracts, as amended from time to time;

j) "Cree Band" means the Cree Nation of Chisasibi, the Whapmagoostui First Nation, the Cree Nation of Wemindji, the Eastmain Band, the Crees of the Waskaganish First Nation, the Cree Nation of Nemaska, the Waswanipi Band, the Cree Nation of Mistissini or the Ouje-Bougoumou Cree Nation, respectively constituted as corporations by the Cree-Naskapi (of Quebec) Act, or any other Cree band that may be constituted as a corporation under that Act;

k) "Cree Community" means the Category IA land of a given Cree Band and the Category III land situated within the perimeter of that band's Category IA land, as such lands are defined in the JBNQA;

(1) "Cree-Naskapi (of Quebec) Act" or "CNQA" means the Cree-Naskapi (of Quebec) Act, S.C. 1984, c. 18;

m) "Cree Nation Government" or "CNG" means the Cree Nation Government, a legal person established in the public interest under An Act respecting the Cree Nation Government, CQLR, chapter G-1.031;

n) "Designated Contractor" means the Contractor selected and designated to be responsible overall for a given Capital Project pursuant to sections 22 and 22;

o) "Designated Professional" means the Professional designated to provide administration of the Construction Contract of a given Capital Project pursuant to sections 18 and 19;

P) "James Bay and Northern Québec Agreement" or "JBNQA" means the agreement approved, given effect and declared valid by the James Bay and Northern Quebec Native Claims Seulement Act, S.C. 1977, c. 32 and by An Act approving the Agreement concerning James Bay and Northern Québec, CQLR, chapter C-67;

q) "National Building Code of Canada" means the code published by the Canadian Commission on Building and Fire Codes and by the National Research Council of Canada;

r) "National Fire Code of Canada" means the code published by the National Research Council of Canada that sets out the technical provisions regulating activities related to the construction, use or demolition of buildings and facilities, the design or construction of specific elements of facilities related to certain hazards and protection measures for the current or intended use of buildings; and

s) "Professional" means an architect, an engineer or an entity authorized to act as an architect or engineer in the Province of Québec pursuant to applicable legislation. The term "Professional" means the Professional or the Professional's authorized representative.

Division III APPLICATION AND IMPLEMENTATION

7. Subject to sections 8 and 15, this By-law applies to any building constructed by or on behalf of the CNG, or owned or used by the CNG, inclusive of any materials, installations or equipment of such building, located in a Cree Community that is used, or that is intended to be used, for regional governance or for housing relating to regional governance and that is:

a) constructed by or on behalf of the CNG or subject to a relevant change of use following the coming into force of this By-law;

b) subject to alteration, reconstruction, repair, expansion or relocation by or on behalf of the CNG following the coming into force of this By-law; or

c) in a condition posing a significant and immediate threat to public health or safety due to a failure to meet the standards established pursuant to section 12 following the coming into force of this By-law.

8. Subject to Part 10 of the Construction Code, CQLR, chapter B-1.1, r. 2, as applicable, this By-law shall apply only to the parts of a building contemplated by section 7 that are altered, reconstructed, expanded or relocated following the coming into force of this By-law, unless such alteration, reconstruction, expansion or relocation represents forty percent (40%) or more of the current replacement cost value of the building, in which case this By-law shall apply to the entire building.

9. In the event of an inconsistency or a conflict between this By-law and a by-law adopted by a Cree Band pursuant to the CNQA, this By-law prevails to the extent of the inconsistency or conflict.

10. Notwithstanding section 9, if the standards established in a by-law adopted by a Cree Band pursuant to the CNQA are more stringent in their effect than the standards established pursuant to this By-law, the provisions of the by-law adopted by the Cree Band that relate to those standards prevail to the extent that they are inconsistent with or conflict with the provisions of this By-law that relate to those standards.

11. Capital Works and Services shall be responsible for the implementation of this By-law.

PART II
STANDARDS

12. Buildings and related construction works subject to this By-law must meet the relevant standards established pursuant to the following, as amended from time to time, which are deemed to form part of this By-law:

    a) Building Act, CQLR, chapter B-1.1;

    b) Construction Code, CQLR, chapter B-1.1, r. 2;

    c) Safety Code, CQLR, chapter B-1.1, r. 3;

    d) Part 9 of Division B of the National Building Code of Canada;

    e) National Fire Code of Canada; and

    f) Other standards at least equivalent in their effect to any standards established by federal or provincial laws of general application in respect of the matter duly adopted by by-law of the CNG.

13. For greater certainty, amendments to any of the instruments referred to in section 12 made alter the coming into force of this By-law shall also form part of this By-law without having to enact a by-law to prescribe the applicability of every amendment made thereto.

14. The CNG shall take reasonable measures, including the development of a plan of action to be implemented within a reasonable time frame, to prevent or remedy a significant and immediate threat to public health or safety resulting from the failure to meet the standards established pursuant to section 12 following the coming into force of this By-law.

PART III
CONSTRUCTION WORK

15. Construction work, including foundation, erection, renovation, relocation, alteration, repair and maintenance work other than regular maintenance and minor repair work, in relation to a building subject to this By-law shall only be carried out by a Contractor.

PART IV
CAPITAL PROJECTS

Division I PLANS AND SPECIFICATIONS

16. A Professional shall prepare plans and specifications for any Capital Project and prior to the commencement of any related construction work, the Professional shall:

    a) certify that the plans and specifications meet all generally applicable federal and provincial standards, as well as relevant standards established pursuant to the CNQA, including those established pursuant to this By-law; and

    b) provide such certified plans and specifications to the CNG or its designated representative, for the CNG to confirm in writing to the Professional that such plans and specifications reflect the needs of the CNG in relation to the Capital Project.

17. In the case of a Capital Project, any modification to the Approved Plans and Specifications shall be subject to the terms and conditions of the Construction Contract regarding change orders and change directives, as applicable.

18. Prior to the commencement of any construction work related to a Capital Project, the CNG shall designate a Professional to provide administration of the Construction Contract as described therein, and to be responsible for visiting the site of the Capital Project at intervals appropriate to the progress of construction to become familiar with the progress and quality of the work and to determine if the construction work is proceeding in general conformity with the Construction Contract and the Approved Plans and Specifications.

19. The designation contemplated by section 18 shall be confirmed by the CNG and the Professional in writing. This Professional is referred to as the "Designated Professional" in this By-law.

20. For a given Capital Project, any Professional, including a Professional who prepares the plans and specifications pursuant to section 16, may act as the Designated Professional.

21. A Designated Professional shall not also act as a Designated Contractor in relation to a given Capital Project.

Division II DESIGNATED CONTRACTOR

22. Prior to the commencement of any Capital Project, and subject to the application of the CNG Construction Procurement By-law, the CNG shall select one Contractor to be responsible overall for carrying out the Capital Project. This Contractor is referred to as the "Designated Contractor" in this By-law, and the CNG and the Designated Contractor shall conclude a Construction Contract as provided in section 25.

23. For clarity, the Designated Contractor may carry out the Capital Project or have any part thereof carried out by another Contractor or Contractors, subject to the terms of the Construction Contract.

24. A Designated Contractor shall not also act as a Designated Professional in relation to a given Capital Project or as the Professional responsible for preparing plans and specifications pursuant to section 16.

Division III CONSTRUCTION CONTRACT

25. Prior to the commencement of any construction work relating to the Capital Project, the CNG and the Designated Contractor shall conclude a Construction Contract which shall at a minimum provide that:

a) the Designated Contractor shall be responsible for the Capital Project overall and shall be solely responsible for construction safety and for compliance with the rules, regulations and practices required by the applicable construction health and safety legislation;

b) the Designated Contractor shall ensure that the Capital Project is carried out in accordance with the Approved Plans and Specifications;

c) the Designated Professional shall have:

i) access to the site of the Capital Project at all times;

ii) the authority to require inspection or testing of any construction work related to the Capital Project, whether or not such work is fabricated, installed or completed;

iii) reasonable notice of when construction work related to the Capital Project will be ready for review and inspection, and as applicable, reasonable notice of the date and time of any inspection by other authorities;

iv) the right to receive, on behalf of the CNG, copies of certificates and inspection reports pertaining to the Capital Project and any construction work related thereto; and

y) the authority to reject construction work related to the Capital Project which in the opinion of the Designated Professional does not conform to the Approved Plans and Specifications;

d) prior to making an application to the Designated Professional for a Certificate of Substantial Performance, and as a condition precedent to the issuance thereof by the

Designated Professional, the Designated Contractor shall provide the Designated Professional with:

i) the "as-built" versions of the Approved Plans and Specifications;

ii) an action plan and related timelines for the correction or completion of identified items (also referred to as a "list of deficiencies"); and,

iii) any operational manual relating to a product forming part of the Capital Project, including material, machinery, equipment and fixtures; and

e) as applicable, prior to making an application to the Designated Professional for a Certificate of Completion and as a condition precedent to the issuance thereof, the Designated Contractor shall provide the Designated Professional with any revised version of the "as-built" versions of the Approved Plans and Specifications and any additional operational manual relating to a product forming part of the Capital Project, including material, machinery, equipment and fixtures.

PART V
FINAL PROVISIONS

Division I ADOPTION AND PUBLICATION

26. This By-law shall be made by means of the adoption of a resolution of the Council of the CNG.

27. Within one week after this By-law has been made, a copy of this By-law shall be posted on the website of the CNG and at a public place designated by the CNG on the Category IA land of each Cree Band.

Division II COMING INTO FORCE

28. This By-law comes into force on the day on which it is posted on the website of the CNG, whether or not it is posted within the time set out in section 27.