

Chronological No. - N° consécutif
1225
File Reference - N° de référence du dossier

BAND COUNCIL RESOLUTION  
RÉSOLUTION DE CONSEIL DE BANDE

NOTE: The words "From our Band Funds" "Capital" or "Revenue", whichever is the case, must appear in all resolutions requesting expenditures from Band Funds.  
NOTA: Les Mots "des fonds de notre bande" "capital" ou "Revenu" selon le cas doivent paraître dans toutes les résolutions portant sur des dépenses à même les fonds des bandes

The council of the Le conseil de la bande indienne	Grassy Narrows First Nation	Current Capital Balance Solde de capital	\$ _____
Agency District	Western District	Committed Engagé	\$ _____
Province	Ontario	Current Revenue Balance Solde de revenu	\$ _____
Place Nom de l'endroit	Grassy Narrows Indian Reserve 21	Committed Engagé	\$ _____
Date	12 November AD 19 92 Day - Jour Month - Mois Year - Année		

DO HEREBY RESOLVE:  
DÉCIDE, PAR LES PRÉSENTES:

GRASSY NARROWS FIRST NATION INTOXICANT LAW

#1-92

- WHEREAS the use of intoxicants has been demonstrated over time to be the greatest contributor to death, suicide, drowning, family breakdown, ill-health, disorderly conduct, nuisances and breaches of law and order for the Grassy Narrows First Nations people, thereby threatening the present and future peace, health and well-being of the Grassy Narrows community and its residents;
- AND WHEREAS combating the destructive effects of intoxicants in an effective manner in our particular community requires special measures tailored to its unique location, culture, traditions, character and composition;
- AND WHEREAS the inhaling of the vapours of gasoline, solvents, cements and other substances poses a very serious threat to the health and safety of our young people and similarly requires that special measures be taken for their protection;
- AND WHEREAS the geographical isolation of the Grassy Narrows Reserve effectively bars speedy access to Judges or Justices for the purpose of obtaining judicial authorizations for certain investigative or enforcement measures considered necessary for effective enforcement of Laws concerning intoxicants, including search warrants;
- AND WHEREAS effective enforcement of many of the provisions of this Intoxication Law requires a speedy response to prevent destruction of evidence, escape, avoidance of prosecution and the like;
- AND WHEREAS it is the responsibility of the duly elected Chief and Council to ensure that all persons that assist in the enforcement of this law are fully protected and indemnified;

**AND WHEREAS** the Chief and Council of the Grassy Narrows First Nations have the power under the Indian Act to make Laws:

- a) to provide for the health of Reserve residents (Section 81(1)(a);
- b) to provide for the observance of law and order (Section 81(1)(c);
- c) for the prevention of disorderly conduct and nuisances (Section 81(1)(d);
- d) with respect to any other matter arising out of or ancillary to those powers (Section 81(1)(g)), including those investigative measures deemed necessary for effective enforcement of those Laws; and
- e) respecting Intoxicants, including Laws declaring the complete prohibition of Intoxicants from the Reserve (Section 85.1).

**AND WHEREAS** the Council of the Grassy Narrows First Nations must be adequately protected and respected in their duty to enforce the control of Intoxicants at the Grassy Narrows First Nations Reserve;

### **DEFINITIONS**

**1. In this Law**

"Intoxicants" includes:

- a) glues, cements and similar compounds, and the vapours thereof;
- b) gasoline, naphtha and other fuels, and the vapours thereof;
- c) cleaning solvents, disinfectants, and the vapours thereof;
- d) anti-freeze, de-icers and other similar products containing alcohol, and the vapours thereof;
- e) perfumes, hairsprays, mouthwashes and other cosmetic or hygienic products, and the vapours thereof;
- f) home-made mixtures capable of producing a state of intoxication;
- g) intoxicants as defined under Section 2(1) of the Indian Act; and
- h) such other substances and the vapours thereof used to produce a state of intoxication;

"Traffic" means:

- a) to manufacture an intoxicant; or
- b) to sell, exchange, barter or trade an intoxicant; or
- c) where the recipient of the intoxicant is 18 years of age or younger, to supply, give, administer or distribute an intoxicant to such a young person, whether or not for gain; or
- d) to offer to do anything in paragraphs (a), (b) and (c) immediately above; and "trafficking" has a corresponding meaning.

**"Intoxicated"**

in addition to its ordinary meaning, any person 18 years of age or less who has in any manner consumed intoxicants is deemed to be intoxicated for the purpose of this Law.

**"Dwelling House"**

includes inside the home, and within a radius extending to where the outside yard is maintained from the home.

**EXCEPTIONS**

2. No offence is committed against the provisions of this Law:
  - a) where the intoxicant is possessed, used or intended to be used solely:
    - i) for medicinal purposes; or
    - ii) for domestic, business, commercial or other purposes that do not involve producing a state of intoxication in any person.
  - b) where the intoxicant is being transported in an unopened state across the Reserve to a destination beyond the Reserve boundary with no intention to traffic the intoxicant on the Reserve unless the destination to which the intoxicant is being transported to is another First Nation Reserve and the Chief and Council of the Reserve of that First Nation direct the Chief and Council of the Grassy Narrows First Nation to seize the intoxicant.
  - c) where liquor is being consumed in a dwelling house for social purposes and not in a public place within the First Nation territory.

**OFFENSES AND PENALTIES**

3.
  - a) Everyone who is intoxicated on the Reserve, other than consuming liquor in a dwelling house is guilty of an offence punishable on summary conviction and is liable to a fine of not more than FIVE HUNDRED DOLLARS (\$500.00) or imprisonment for a period not exceeding three (3) months, or both or to an Order of community service not to exceed 160 hours;
  - b) Everyone who is in possession of an intoxicant on the Reserve, other than liquor in a dwelling house, is guilty of an offence punishable on summary conviction and is liable to a fine of not more than FIVE HUNDRED DOLLARS (\$500.00) or imprisonment for a period not exceeding three (3) months or both or to an Order of community service not to exceed 160 hours;
  - c) Everyone who:
    - i) traffics in an intoxicant, or
    - ii) is in possession of an intoxicant for the purpose of trafficking

is guilty of an offence punishable on a summary conviction and is liable to a fine of not more than TWO THOUSAND DOLLARS (\$2,000.00) or imprisonment for a period not exceeding six (6) months;

- d) Everyone who, while intoxicated, and not being in a dwelling house, creates a nuisance by disturbing the peace and quiet of an occupant of a dwelling house by fighting, screaming, shouting, swearing, singing, using insulting or obscene language, attempting to gain entry to said dwelling house or other disorderly conduct is guilty of an offence punishable on summary conviction and is liable to a fine of not more than FIVE HUNDRED DOLLARS (\$500.00) or imprisonment for a period not exceeding ninety (90) days, or both or to an Order of community service not to exceed 480 hours;
- e) Everyone, who while intoxicated and not being in a dwelling house, causes a nuisance to another person by impeding, insulting, molesting, harassing, threatening, begging from, shouting at, swearing at or displaying other disorderly conduct towards that other person is guilty of an offence punishable by summary conviction and is liable to a fine of not more than FIVE HUNDRED DOLLARS (\$500.00) or to imprisonment for a period not exceeding ninety (90) days, or both or to an Order of community service not to exceed 480 hours;
- f) Everyone who, while intoxicated, interferes with the orderly conduct of commercial, administrative, educational, recreational, health care, religious or ceremonial activities on the Reserve is guilty of an offence punishable on summary conviction and is liable to a fine of not more than TWO THOUSAND DOLLARS (\$2,000.00) or to imprisonment for a period not exceeding one hundred and twenty (120) days, or both or to an Order of community service not to exceed 640 hours;
- g) Everyone who, while intoxicated, puts at risk the health of any child under the age of 12 years to whom that person stands in loco parentis by leaving said child without making reasonable arrangements for his/her shelter, feeding, clothing, supervision or protection during that person's absence or by exposing the child to danger while undertaking any activity, including the operation of a vehicle, including a snowmobile, where the child is a passenger is guilty of an offence punishable to fine of not more than TWO THOUSAND DOLLARS (\$2,000.00) or to imprisonment for a period not exceeding one hundred and twenty (120) days, or both or to an Order of community service not to exceed 640 hours;
- h) Everyone who causes damage to property as a result of contravening this Law, may be required to pay restitution by having to pay back to the owner of the property for the damage caused.
- i) All fines collected as a result of offences and penalties under this Law shall enure to the benefit of Grassy Narrows First Nation by having the fine revenues deposited in a Grassy Narrows First Nation Trust Account, and these fine revenues shall go to the benefit of the entire community.

#### **POINTS OF ENTRY ONTO THE RESERVE**

<b>WHEREAS</b>	it is fundamental to the health, safety, security, peace and order of the Grassy Narrows First Nations Reserve that its Intoxication Control Laws be effectively enforced;
<b>AND WHEREAS</b>	effective enforcement of the said Law cannot be accomplished without effectively controlling the importation of intoxicants at points of entry onto the Reserve;
<b>AND WHEREAS</b>	deterrence is more humanely and effectively accomplished by increasing the risk of detection rather than by increasing penalties for breaches of the said Law;

**AND WHEREAS** the geographical isolation of the Reserve from Judges and Justices makes the seeking of timely judicial authorizations for border searches a practical impossibility;

### **SEARCH AND SEIZURE**

4.
  - a) A First Nation Constable, other authorized peace officer, or a member of the First Nation where authorized by the First Nation Council, may, without a warrant, conduct a reasonable search of the clothing of a person entering or upon the Reserve:
    - i) if he has reasonable grounds to believe that person to be in possession of an intoxicant in contravention of this Law; or
  - b) The First Nation Council may authorize a First Nation member or members to assist a First Nation Constable or other peace officer in the reasonable search of a person entering onto the reserve who may be attempting to import intoxicants concealed under his or her clothing into the Grassy Narrows First Nations Community.
5. A First Nation Constable or other authorized peace officer may at all points of entry onto the reserve, without warrant and without grounds to believe or suspect that an offence under this Law is being committed or attempted, conduct reasonable searches of all aircraft, vehicles including snowmobiles, vessels, luggage, bags, boxes or other containers and conveyances coming onto the Reserve.

### **BUILDINGS ON THE RESERVE**

6. A First Nation Constable, other authorized peace officer, members of the Crisis Intervention Team, member or members of the First Nation Council may, subject to a search warrant, conduct a reasonable search of any building on the Reserve, including offices and dwelling houses, **PROVIDED THAT**
  - a) there are reasonable grounds to believe that such a search will disclose evidence of an offence under this Law; **AND**;
  - b) the prior approval of the Chief or the Deputy Chief or any two members of First Nation Council has been obtained for conducting that particular search at that particular time; **AND**
  - c) the person conducting the search is accompanied by at least one member of First Nation Council; **AND**
  - d) only sufficient force is utilized to gain entry into a building on the reserve where entry cannot be obtained without the use of force.

### **OTHER SEARCHES ON THE RESERVE**

7. A First Nation Constable or other authorized peace officer may without warrant, conduct searches of all aircraft, vehicles, vessels, luggage, boxes, bags, and other containers, and conveyances found upon the Reserve **PROVIDED THAT** he has reasonable grounds to believe that a search will disclose the presence of unlawful intoxicants or property stolen while intoxicated.

### **SEIZURE OF UNLAWFUL INTOXICANTS**

8. At the time of a search and seizure procedure, the Council may authorize an individual or individuals, including the Crisis Intervention Team to monitor the search.
9. A First Nation Constable, other authorized peace officer may seize all Intoxicants which he believes on reasonable grounds have been possessed or used in contravention of the provisions of this Law.
10. Any seized intoxicants shall be disposed of upon forfeiture to the Crown Attorney or shall be disposed of by the Ontario Provincial Police as directed.

### **EVICCTIONS**

11. Any person not a member of the Grassy Narrows First Nations or ordinarily resident in the Grassy Narrows First Nations community who is found intoxicated in the Grassy Narrows Reserve or in possession of intoxicants in the Grassy Narrows Reserve shall be subject to prosecution under the provisions of this Law and the First Nation Council shall have the right to evict such person from the Grassy Narrows Reserve at his expense.

### **PROTECTION OF CHIEF, COUNCIL AND FIRST NATION MEMBERS**

- 12.a. Any person who threatens or causes or attempts to cause any injury or bodily harm to any member of the Council of the Grassy Narrows First Nations or to any First Nation member working on behalf of the Council in enforcing this Law and especially where such person is in possession of a weapon including an axe, firearm, or knife shall be guilty of an offence and shall be prosecuted immediately under the provisions of the Criminal Code of Canada.
- 12.b. Any person including a member of Council who assists a peace officer in enforcement of this law shall be fully protected in law and indemnified from any legal action that may be pursued.

**CONFLICT OF INTEREST**

13. Where a person or a Justice of the Peace declares that there is a conflict of interest in the Justice of the Peace presiding over a case concerning a relative, the Justice of the Peace shall withdraw from presiding over the case.

**PROVISO**

14. Nothing in this Law shall be constructed in any manner which serves to limit the powers of the Chief and First Nation Councillors, First Nation Constables or other authorized peace officers contained in any other statute or recognized at common law.

**ENFORCEMENT**

15. Grassy Narrows First Nation Council authorize the Ontario Provincial Police (OPP) and the Royal Canadian Mounted Police (RCMP), and the Grassy Narrows First Nation Constables to diligently enforce the provisions of this law.


By-law number 1-92 enacted on the 11th day of November, 1992, and being a By-law to regulate the activities of people abusing the use of alcohol, sniffing gasoline, glue, and other such substances, be and the same is hereby enacted.

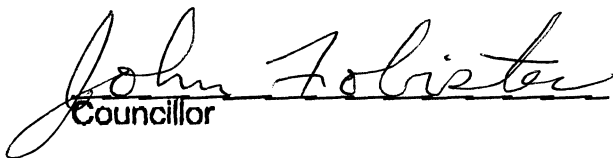
A duly-convened Community meeting was held at Grassy Narrows on November 3, 1992, at which time 29 First Nation members attended. The community voted in favour of a door-to-door vote to be taken. As a result of the door-to-door vote, the following results occurred:

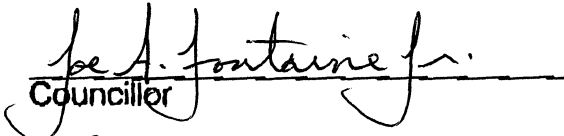
99 In Favour  
46 Against

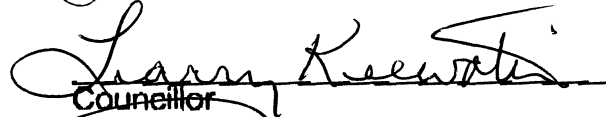
**This By-Law is hereby enacted** at a duly convened meeting of the Council of the Grassy Narrows First Nation this 11th day of November, 1992.

Voting in favour of the By-law are the following members of the Council:

  
Chief

  
Councillor

  
Councillor

  
Councillor

  
Councillor

  
Councillor

\_\_\_\_\_  
Councillor

being the majority of those members of the Council of the Grassy Narrows First Nation present at the aforesaid meeting of the Council.

The quorum of the Council is 5 members. Number of members of the Council present at the meeting: 7.

I, William Fobister, Chief of Grassy Narrows First Nation, do hereby certify that a true copy of the foregoing By-law was mailed and faxed to the Minister of Indian Affairs, and Northern Development at Headquarters Offices in Hull, Quebec, pursuant to the provisions of the Indian Act this 11th day of November, 1992.