

CHIPPEWAS OF RAMA MNJIKANING FIRST NATION  
Being a Band within the meaning of the *Indian Act*

**RAMA MNJIKANING FIRST NATION  
ANTI- SMOKING BY-LAW**

**By-Law No. 06-02**

Enacted on the 10<sup>th</sup> day of April, 2006.

This By-Law shall come into force and effect on June 1<sup>st</sup>, 2006.

**WHEREAS** the Chippewas of Rama Mnjikaning First Nation has and recognizes its inherent right of self-government, and its jurisdiction to pass laws and powers pursuant to the *Indian Act* to create By-Laws providing for the health and safety of the residents on and visitors to the Rama Mnjikaning First Nation Territory;

**AND WHEREAS** medical research has determined that second-hand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) is a health hazard and discomfort for many people;

**AND WHEREAS** it is desirable, in the interest of promoting the health, safety and well-being of all members, Employees and visitors to the Chippewas of Rama Mnjikaning First Nation, to prohibit or regulate smoking, or both, on the Chippewas of Rama Mnjikaning First Nation as hereinafter set out;

**NOW THEREFORE** the Chief and Council of the Chippewas of Rama Mnjikaning First Nation hereby make the following By-Law:

**1. PREAMBLE**

- 1.1. Principles of promoting a healthy community and prevention of health risks are essential to establishing a safe work environment and places of public assembly. Whereas it is believed that anti-smoking measures are needed to protect the health of members, Employees, and visitors to the Chippewas of Rama Mnjikaning First Nation, it is also imperative to maintain our cultural and spiritual integrity through traditional practices. It is our inherent right to practice our customs and therefore any practices involving burning or smoking of traditional medicines for spiritual or cultural wellness will be permitted, whereas recreational smoking will be banned in all places of employment and public gathering unless otherwise provided for in this By-Law.

**2. SHORT TITLE**

- 2.1. This By-Law may be cited as the "RMFN Anti-Smoking By-Law."

### 3. INTERPRETATION

#### 3.1. In this law:

- a) **“Building Inspector”** means the Chippewas of Rama Mnjikaning First Nation Building Inspector or any other person so appointed by the Chippewas of Rama Mnjikaning First Nation Chief and Council;
- b) **“Ceremonial Use” or “Cultural Use”** means the use of burning or pipe smoking traditional medicines for spiritual ceremonies, including the burning of tobacco, sage, cedar, sweet grass (or any other medicinal plant) for smudging or gifting the Creator and ancestors of the First Nations of Canada, including any medicinal plants and herbs for celebration, teaching and cultural conservation;
- c) **“Clean Tobacco”** means any tobacco produced and harvested from an organic seed, that is cultivated and cured without supplement of chemical additives for preservation, or any commercially produced and sold tobacco that is certified organic and additive free;
- d) **“Commercial Tobacco”** means any tobacco that is bought or sold by a commercial producer that is not organic and contains chemicals and additives not inherently found in Clean Tobacco;
- e) **“Council”** means the Chief and Council of the Chippewas of Rama Mnjikaning First Nation;
- f) **“Employer”** includes any person who as an owner, proprietor, manager, superintendent or overseer of any activity, business, work, trade, occupation or profession has control over or direction of, or is directly or indirectly responsible for the employment of a person therein, and where the context so requires, includes the Council; and is not limited to Rama Mnjikaning First Nation Administration but any Employer of any Employees employed within the jurisdiction of Rama Mnjikaning First Nation. All Employers must comply with the provision of this By-Law unless this By-Law otherwise specifies;
- g) **“Employee”** includes any person who is acting in the capacity of the course of their occupation, work and job, and any person who is employed within the territory of Rama Mnjikaning First Nation regardless of who their Employer is. Every Employee, unless otherwise stated in this By-Law, must comply with all provisions contained within this By-Law;
- h) **“Environmental Tobacco Smoke” or “Recreational Tobacco Smoking”** includes the carrying of a lighted cigarette, pipe, cigar, or any other lighted smoking equipment that has no connection to Cultural or spiritual Use;

- i) **“Medicinal Plants and Herbs”** includes tobacco, sage, sweet grass and cedar, and any other plants and herbs that were utilized in a medical or spiritual capacity by First Nations, but does not include any unlawful narcotic or illicit substances and drugs as established in the *Criminal Code R.S. 1985 c.C-46* and Regulations as amended from time to time;
- j) **“Officer”** means a By-Law Enforcement Officer, or a member of the Mnjikaning Police Services, or any other person so appointed by Rama Mnjikaning First Nation Chief and Council;
- k) **“Place of Employment”** means any enclosed area of a building or structure in which an Employee works and includes any area used exclusively by Employees. It also includes any vehicle, heavy machinery or equipment used in the course of employment, but does not include parts of structures or buildings otherwise provided for within this By-Law;
- l) **“Place of Public Assembly”** means a building or portion thereof used for the gathering together of persons for purposes such as deliberation, holding a meeting or workshop, entertainment, recreation, playing of games of chance, business or amusement, and includes but is not limited to places such as the Band Government Office, recreational center, church hall, and similar facilities, but does not include private dwellings;
- m) **“Proprietor”** means the owner, or his/her agent or representative of the premises referred to in this By-Law, and includes any person in charge thereof or anyone who controls, governs or directs the activity carried on therein, and, where the context so requires, also includes Council;
- n) **“Separate Structure”** means a shelter or building that is categorically and structurally separate from a building and does not share entrance or exit with any building, is an enclosure by a building but stands alone at a specified distance from the building;
- o) **“Smoking Kiosk”** means a contained Separate Structure that has its own ventilation system that meets all *American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE) Standard 62-2001, Ventilation for Acceptable Indoor Air Quality* requirements. It is a small enclosed designated smoking area that must not be attended or maintained by Employees unless this By-Law otherwise provides for such attendance and maintenance.

## 4. PROHIBITIONS

### 4.1. PLACE OF EMPLOYMENT

- a) Every Place of Employment on the Chippewas of Rama Mnjikaning First Nation shall be designated as a NO SMOKING area, except as provided for in subsections (5.1) through (6.4). This prohibition on smoking includes a presumptively reasonable minimum distance of 9 metres or 29.5 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited so as to ensure that tobacco

smoke does not enter the area through entrances, exits, open windows, or other means.

#### **4.2. PLACES OF PUBLIC ASSEMBLY**

- a) No person shall smoke in an enclosed indoor area used as a Place of Public Assembly, except as provided for in subsections (5.1) through (6.4). This prohibition on smoking includes a presumptively reasonable minimum distance of 9 metres or 29.5 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means.

#### **4.3. PROVISION OF TOBACCO**

- a) No person shall sell or supply tobacco to a person who is less than 19 years of age.
- b) This By-Law does not regulate or enforce the private and individual gifting of tobacco between individuals.

#### **4.4. PROMOTION OF TOBACCO PRODUCTS TO PERSONS UNDER 19**

- a) No person shall, in any place where tobacco products are sold or offered for sale, promote the sale of tobacco products through product association, product enhancement or any type of promotion material, to persons less than 19 years of age.

### **5. EXCEPTION – CEREMONIAL OR CULTURAL USE**

5.1. Any ceremonial or Cultural Use of burning medicinal plants or herbs for spiritual or religious purposes is not prohibited, including the ceremonial or Cultural Use of burning Clean Tobacco and Commercial Tobacco products.

### **6. EXCEPTION - SMOKING KIOSKS**

- 6.1. An Employer or Proprietor may, at their own expense and accepting all related liability, designate a Smoking Kiosk where smoking is permitted, provided that the Smoking Kiosk:
- a) is structurally separated from all other areas of the enclosed worksite or place of public assembly, including other break areas;
  - b) is a separate structure that is located outside of the building at least 9 metres or 29.5 feet away from any exit or entrance into a building;
  - c) is clearly identified by a sign stating "SMOKING IN THIS AREA ONLY";
  - d) to prevent smoke from entering other areas of the worksite or place of public assembly which are enclosed, the Smoking Kiosk must have a separate, non-recirculating exhaust ventilation system that:

6.1.d.1. meets all *American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE) Standard 62-2001, Ventilation for Acceptable Indoor Air Quality* requirements, as may be amended from time to time; including the reverse or negative air pressure requirements, enclosure and proper door requirements, and any other requirement that reduces the exchange of environmental smoke from entering areas in which smoke is prohibited; and

6.1.d.2. discharges directly to the outdoors, and away from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means.

6.2. All Smoking Kiosks must be separate from all other Employee break rooms.

6.3. Each and every Smoking Kiosk must be inspected by the Building Inspector and approved by *ASHRAE* standards prior to it being utilized as a Smoking Kiosk, and

- a) a Building Inspector may inspect from time to time to ensure compliance of standards once the Smoking Kiosk meets standards;
- b) a Building Inspector has the authority to shut down a Smoking Kiosk that does not meet the required standards and shall report it to an Officer.

6.4. No Employee will be responsible for attending or maintaining a Smoking Kiosk unless the Smoking Kiosk is closed and free from idling environmental smoke or they have been contracted specifically for the maintenance and cleaning of a Smoking Kiosk.

## **7. SIGNS AND SYMBOLS**

7.1. Where, under any section of this By-Law, a sign is to be displayed in accordance with this subsection, such sign shall:

- a) carry the text "NO SMOKING" in capital letters;
- b) consist of two (2) contrasting colors, or if the lettering is to be applied directly to a surface or to be mounted on a clear panel, the lettering shall contrast to the background color;
- c) with respect to size of lettering, be not less than a letter height of 2.54 cm;
- d) include in the text at the bottom of each sign, "Chippewas of Rama Mnjikaning First Nation By-Law No. 06-02, MAXIMUM FINE \$1,000" in letters not less than one half (1/2) of an inch in height for signs with letter size of one inch (1"), and not less than one-quarter (1/4") of the height of the letters on all other sizes of signs.

7.2. Notwithstanding the provisions of subsection (8.1), the following graphic symbol can be used to indicate no smoking areas:



Chippewas of Rama Mnjikaning First Nation Council  
By-Law No. 06-02

7.3. Any such symbol shall be on a white background with the circle and the interdictory stroke in red, with a cigarette, letters and figures in black, and provided that the diameter of the circle is at least fifteen (15) cm.

## 8. ENFORCEMENT

- 8.1. This By-Law shall be enforced by the Rama Mnjikaning First Nation By-Law Enforcement Officers and the Mnjikaning Police Service.
- 8.2. Employers, Proprietors and Managers are required upon becoming aware of a breach of this By-Law, to notify the offender that they are in contravention of this By-Law and ask them to immediately comply. In the event that the offender fails to immediately comply, the Employer, Proprietor or Manager must immediately report the offence to an Officer.
- 8.3. A person who fails or refuses to comply with any provision of this By-Law, or who fails or refuses to comply with an order made under this By-Law, or who resists or interferes with an Officer acting under this By-Law commits an offence.
- 8.4. This By-Law is enacted under section 81 of the *Indian Act* and, pursuant to the provisions of the *Indian Act*, is enforceable in a Canadian court of competent jurisdiction.

## 9. PENALTY

- 9.1. Any person who commits an offence under this By-Law is liable on summary conviction to a fine of not more than \$ 1,000 (one thousand dollars) or to imprisonment for a term of 30 days (thirty days), or to both.
- 9.2. Any Proprietor or Employer who fails or neglects to perform the duties imposed on him by any of the provisions of this By-Law commits an offence and is liable on summary conviction to a fine of not more than \$ 1,000 (one thousand dollars) or to imprisonment for a term of 30 days (thirty days), or to both.

## 10. APPEAL

- 1.1. Any person who receives a ticket under this By-Law shall have the right to elect to appeal their ticket before a Rama Mnjikaning Tribunal. Notice of appeal must be provided within 30 days of the date of the ticket. A decision of the Rama Mnjikaning Tribunal on appeal is final and shall not be subject to review.

## 11. SEVERABILITY

- 11.1. If any section or part of this By-Law is found to be invalid for any reason, such section or part or item shall be deemed to be severable and all other sections or parts of this By-Law shall be deemed to be separate and independent therefrom and to be enacted as such.

## 12. FORCE AND EFFECT

- 12.1. This By-Law shall come into effect on of June 1, 2006 and shall apply on all Rama Mnjikaning First Nation Reserve Lands, Reserve No. 32, as defined in the *Indian Act*.

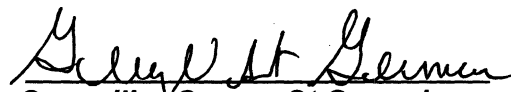
**THIS BY-LAW IS HEREBY** made at a duly convened meeting of the Chief and Council of the Chippewas of Rama Mnjikaning First Nation this 10th day of April, 2006.

Voting in favour of the By-Law are the following members of Chief and Council:

### Chief and Council Signatures of Approval

  
Chief Sharon Stinson Henry

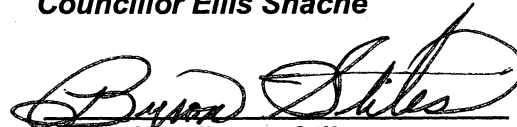
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Councillor Rodney Noganosh

  
Councillor George St. Germain

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Councillor Robert T. Stinson

  
Councillor Ellis Snache

  
Councillor Norman V. Stinson

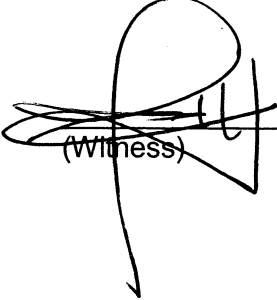
  
Councillor Byron Stiles

being the majority of those members of the Council of the Chippewas of Rama Mnjikaning First Nation present at the aforesaid meeting of Chief and Council.

The quorum of Chief and Council is four members.

Number of members of Chief and Council present at the meeting: 6.

I, Sharon Stinson Henry (Chief/Councillor of the First Nation,  
do hereby certify that a true copy of the foregoing By-Law was mailed to the Minister of  
Indian Affairs and Northern Development at the Band Governance Directorate, Ottawa  
pursuant to subsection 82(1) of the *Indian Act*, this 10<sup>th</sup> day of April, 2006.

  
(Witness)

  
(Chief/Councillor)