



Chronological No. - N° consécutif
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. / 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	ST. MARY'S FIRST NATION	Current Capital Balance / Solde de capital	\$ _____
Agency District	ATLANTIC REGION	Committed Engagé	\$ _____
Province	NEW BRUNSWICK	Current Revenue Balance / Solde de revenu	\$ _____
Place / Nom de l'endroit	150 CLIFFE STREET, FREDERICTON, NB, E3A 01A	Committed Engagé	\$ _____
Date	<u>13</u> <u>September</u> AD 19 <u>2004</u> Day - Jour Month - Mois Year - Année		

DO HEREBY RESOLVE / DÉCIDE, PAR LES PRÉSENTES:

WHEREAS the Council of the First Nation desires to enact a by-law to provide for the health and wellness of its residents on the St. Mary's First Nation Reserve by limiting their exposure to tobacco smoke;

AND WHEREAS on the date set out herein the Council of the First Nation did consider the hereto attached By-law To Provide For The Health And Wellness Of Residents Of The St. Mary's First Nation Reserve (also cited as the St. Mary's First Nation Smoking By-law) marked "A";

NOW THEREFORE pursuant to the consent of a majority of the Councillors of the First Nation present at a meeting of the Council duly convened, the Council of the St. Mary's First Nation does hereby endorse, authorize, approve and make a By-law To Provide For The Health And Wellness Of Residents Of The St. Mary's First Nation Reserve pursuant to, and in accordance with, powers of the Council expressed in section 81(1) of the Indian Act, R.S.C. 1985, c. I-5, as amended, a copy of the said By-law being attached hereto and marked "A".

A quorum for this Bande / Pour cette bande le quorum est

consists of / fixé à 7

Council Members / Membres du Conseil

Walter Brooks
(Councillor - Conseiller)

Antony D.
(Councillor - Conseiller)

Peggy Brooks
(Councillor - Conseiller)

Chief Candice Paul
(Chief - Chef)

Barbara Brown
(Councillor - Conseiller)

[Signature]
(Councillor - Conseiller)

[Signature]
(Councillor - Conseiller)

[Signature]
(Councillor - Conseiller)

FOR DEPARTMENTAL USE ONLY - RÉSERVÉ AU MINISTÈRE					
1 Band Fund Code / Code du compte de bande	2 Computer Balances - Soldes d'ordinateur		3 Expenditure - Dépenses	4 Authority (Indian Act Section) / Autorité (Article de la Loi sur les Indiens)	5 Source of Funds / Source des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue
	A. Capital	B. Revenue - Revenu			
		\$ _____	\$ _____		
6 Recommended - Recommandable			Approved - Approuvable		
Date _____			Date _____		
Recommending Officer - Recommandé par _____			Approving Officer - Approuvé par _____		

By-Law No. _____
of the St. Mary's First Nation or Band
A BY-LAW TO PROVIDE FOR THE HEALTH AND WELLNESS
OF RESIDENTS OF THE ST. MARY'S FIRST NATION RESERVE

WHEREAS the Band Council of the St. Mary's First Nation desires to make a by-law to provide for the health and wellness of its residents on the St. Mary's First Nation Reserve;

AND WHEREAS the Council of St. Mary's First Nation is empowered to enact a by-law providing for the health of its residents on reserve land, the regulation of the use of buildings, the control of amusements, and with respect to any matter arising out of or ancillary to the exercise of those powers, and for the imposition of a penalty for a violation thereof, pursuant to paragraphs 81(1)(a), (h), (m), (q) and (r) of the *Indian Act*;

AND WHEREAS exposure to tobacco smoke, including second hand smoke, has been linked to health hazards such as cancer, stroke, heart disease and respiratory illness;

AND WHEREAS it is desirable for the health and wellness of the residents and non-residents of the St. Mary's First Nation that exposure to tobacco smoke be limited on the St. Mary's First Nation Reserve;

NOW THEREFORE the Band Council of the St. Mary's First Nation or Band hereby enacts the following by-law:

TITLE

1. This by-law may be cited as the "*St. Mary's First Nation Smoking By-Law.*"

INTERPRETATION

2. In this by-law:
 - (a) "band" means the St. Mary's Indian Band or First Nation, as defined by section 2 of the *Indian Act*;
 - (b) "band council" means the elected Band Councillors of the St. Mary's First Nation, including the Chief of the said Band, being a council of the band within the meaning of section 2 of the *Indian Act*;
 - (c) "by-law enforcement officer" means any person, including a peace officer, designated by the Band Council to enforce the provisions of this by-law;

- (d) “designated smoking area” means a place or facility, owned or operated by the band or the band’s wholly owned corporations, or corporations in which the band holds a controlling interest and which is accessible to the public and designated by virtue of this by-law as a place in which smoking is permitted;
- (e) “eating/drinking establishment” means a place or facility, owned or operated by the band or the band’s wholly owned corporations, or corporations in which the band holds a controlling interest, and which is fully licensed and primarily devoted to the service and sale of food and alcoholic beverages for consumption on the premises by its patrons;
- (f) “entertainment center” means a place or facility owned or operated by the band or the band’s wholly owned corporations, or corporations in which the band holds a controlling interest, and which hosts or operates bingo games and other authorized games of chance including video lottery terminals;
- (g) “indoor public place” means places, premises and facilities owned or operated by the band or the band’s wholly owned corporations, or corporations in which the band holds a controlling interest and used as a place for the purpose of public access or assembly, exclusive of eating/drinking establishments and entertainment centers, but which includes the public areas of retail stores, retail outlets, convenience stores, grocery stores and all band offices including, but not limited to, reception areas, foyers, hallways, public wash rooms, entrance ways, elevators and public corridors;
- (h) “person” includes a business or corporation;
- (i) “reserve” means the St. Mary’s Indian Reserve or First Nation;
- (j) “retail store and retail outlet” means a building or part thereof, owned or operated by the band or the band’s wholly owned corporations, or corporations in which the band holds a controlling interest and used for the purposes of retail trade or services;
- (k) “smoke” or “smoking” means to give off, draw in or exhale tobacco smoke and includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment, but shall not include the conduct of legitimate and/or sacred First Nations ceremonies or the carrying of traditional items used for the purposes of conducting legitimate and/or sacred First Nations ceremonies and related activities.

APPLICATION

3. This by-law applies to all indoor public places on the St. Mary’s First Nation Reserve accessible to residents and the general public.

4. For greater certainty, this by-law does not apply to any private residence or privately owned or operated business establishment on the St. Mary's First Nation Reserve.

ADMINISTRATION

5. No person shall smoke in an indoor public place unless that place is a designated smoking area.
6. No ashtrays or cigarette receptacles shall be placed in an indoor public place except within a place that is a designated smoking area.
7. All eating/drinking establishments and entertainment centers on the St. Mary's First Nation Reserve are hereby designated as smoking areas.
8. All indoor public places shall post a clear and visible "no smoking" sign at each entrance to the facility and at other appropriate locations within the indoor public place.

PENALTY

9. Every person who contravenes any of the provisions of this by-law is guilty of an offence and is liable on summary conviction to a fine of one hundred dollars (\$100.00).
10. This by-law may be enforced by a by-law enforcement officer designated by the Band Council.

GENERAL

11. Should a court of competent jurisdiction determine that any provision of this by-law is invalid for any reason, the invalid provision shall be severed from the by-law and the validity of the remainder of the by-law shall not be affected.
12. This by-law comes into force forty (40) days following the date of mailing to the Minister of Indian Affairs and Northern Development as required by section 82 of the *Indian Act*.
13. In this by-law, words importing the singular include the plural and vice versa, and words importing the masculine, feminine or neuter gender include such gender as the context requires.
14. This by-law shall not abrogate, derogate from, define or limit in any manner the Aboriginal or Treaty rights of Aboriginal Peoples living, working or visiting on the St. Mary's First Nation Reserve.

THIS BY-LAW IS HEREBY MADE at a duly convened meeting of the Council of the St. Mary's First Nation or Band this 13 day of September 2004.

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

Councilor Lisa K. Howe

Bradley J. Paul
Councilor Bradley J. Paul

Councilor Hubert L. Paul

Annette M. Paul
Councilor Annette M. Paul

Councilor Percy J. T. Sacobie

Councilor Gina L. Brooks

Leonard R. Brooks
Councilor Leonard R. Brooks

Councilor Martin J. Bear Sr.

Peggy A. Brooks
Councilor Peggy A. Brooks

Barbara B. Brown
Councilor Barbara B. Brown

Walter J. Brooks
Councilor Walter J. Brooks

Howard A. Paul
Councilor Howard A. Paul

representing a majority of those members of the Council of the St. Mary's First Nation or Band present at the aforesaid meeting of the Council.

A quorum of the Council is 7 members. The number of members of the Council present at the meeting was 11.

I, Chief Candice Paul, Chief of the St. Mary's First Nation or Band, 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 Atlantic Regional Office of the Department in accordance with subsection 82(1) of the *Indian Act* this 13 day of September 2004.

Thomas J. Paul
Witness

Candice Paul
Chief Candice Paul