



Mushuau Innu First Nation

Enforcement and Search Powers By-law

By-law no. 2025-02

Enacted on the date set out below showing Council's endorsement.

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Preamble

- A. Whereas Mushuau Innu First Nation is exercising its inherent rights of self-governance as well as its by-law powers under s. 81(1) of the *Indian Act*, RSC 1985, c I-5, particularly subsections (a) to provide for the health of residents on the reserve, (c) the observance of law and order, and (d) the prevention of disorderly conduct and nuisances, as well as (q) ancillary matters, and (r) summary conviction offences;
- B. And whereas alcohol is prohibited in Natuashish under the *Intoxicant By-Law*, 2008-01 (“MIFN *Intoxicant By-Law*”);
- C. And whereas illegal drugs, as defined below, are prohibited further to the *Controlled Drugs and Substances Act*, SC 1996, c 19;
- D. And whereas the *Cannabis Act*, SC 2018, c 16 outlines prohibitions in relation to the use, possession, and distribution of cannabis;
- E. And whereas alcohol and drugs are nevertheless present in Natuashish, and are primary drivers of a public health crisis involving addiction and misuse of substances, which has significant impacts on quality of life, causes tragic losses of life, and is severely disrupting law, order and public peace in Natuashish;
- F. And whereas the Council of Mushuau Innu First Nation, as the elected government of our people, has a duty to act to protect the health and well-being of Mushuau Innu;
- G. And whereas the Council of Mushuau Innu First Nation is taking steps through this by-law to support the enforcement of all our by-laws;

Prohibited Substances

- 1. The following are Prohibited Substances in Natuashish:
 - a. alcohol, being an intoxicant within the meaning of the MIFN *Intoxicant By-Law*, 2008-01, and this by-law does not add to, diminish or otherwise change the prohibitions on alcohol contained in that by-law;
 - b. any illegal drug, being a substance listed under the *Controlled Drugs and Substances Act*, SC 1996, c 19 for which possession or trafficking of the substance could form the basis of an offence under that Act, but does not include a substance held by an authorized person for authorized medical or other purposes if the person’s conduct in relation to the substance would not constitute an offence under that Act; and
 - c. illegal cannabis, being cannabis or cannabis product that was grown, produced, in possession, or sold other than as specifically authorized under the *Cannabis Act*, SC 2018, c 16 or under the *Canadian Charter of Rights and Freedoms*.

2. The manufacture, import, sale, distribution, exchange, purchase and possession of illegal drugs and illegal cannabis are prohibited in Natuashish.
3. The prohibition in s. 2, and the prohibitions in the MIFN *Intoxicant By-Law*, 2008-01, are subject to enforcement under this by-law in addition to any other enforcement that may apply under any other law or by-law.

Searches

Searches – General Authority

4. Officers are authorized to conduct reasonable searches of persons, personal property, packages, and MIFN-owned buildings for the purpose of enforcing MIFN By-laws, including:
 - a. searches under s. 5 (Searches Entering Natuashish); and
 - b. any other reasonable search of persons, personal property, packages, or MIFN-owned buildings for the purpose of enforcing MIFN By-laws, if the officer has reasonable grounds for believing that a Prohibited Substance is present in contravention of this by-law or another MIFN By-law.

Searches Entering Natuashish

5. Everything and everyone entering Natuashish is subject to a search by an officer for purposes of screening for Prohibited Substances.
 - a. In this section, “entering Natuashish” includes, without limitation:
 - i. A person who has arrived in Natuashish that day by any means, whether by plane, ferry or other boat or vessel, snowmobile, or by any other means;
 - ii. A person outside Natuashish who is scheduled to board a plane to Natuashish that day and is present in or around an airport for travel purposes;
 - iii. A person on a plane to Natuashish;
 - iv. A person entering or attempting to enter Natuashish by snowmobile, vehicle, on foot, or in any other manner; or
 - v. A person who is scheduled to board a ferry to Natuashish that day or is in the process of travelling to Natuashish by ferry or other type of boat or vessel.
 - b. A search under this section may be conducted as a routine search without further grounds, subject to s. 6.
 - c. Entry into Natuashish is conditional on consenting to a search of one’s person and personal property consistent with this section.

- d. A person who refuses to be searched entering Natuashish is subject to be barred from entry to Natuashish and to immediate removal from Natuashish.

Search of a Person

6. A search of a person may include:
 - a. a visual inspection, which may require the person being searched to open or remove outerwear including but not limited to footwear, coats/jackets, snowpants, snowsuits, sweaters and hats;
 - b. a pat down, for which the person being searched has the right to request that the search be conducted by an officer of the same sex;
 - c. the use of trained dogs or screening technology that does not require the person to remove clothing other than outerwear; or
 - d. another type of search, which may only be conducted if the officer has reasonable grounds to believe a Prohibited Substance is present on the person, and only if the officer conducting the search has been trained to conduct the type of search conducted.

Search of a Building

7. An officer may conduct a search of any building in Natuashish that is for public use.
8. A search of a residence in Natuashish may occur if:
 - a. The search is conducted by the RCMP or another police officer, or the search is conducted by at least three Community Safety Officers upon notice to the RCMP or another police officer; and
 - b. The officer(s) conducting or authorizing the search have reasonable grounds to believe a Prohibited Substance is present in the residence, and have reviewed these grounds with at least 2 members of the Council who are not in a conflict of interest and who did not object to the officers proceeding with the search.

Search of Materials Arriving by Mail

9. A search of anything arriving by mail shall be in compliance with the *Canada Post Corporation Act*, RSC 1985, c C-10. Subject to that Act:
 - a. An officer may not open mail which is in the course of post, as that phrase is defined in the *Canada Post Corporation Act*, RSC 1985, c C-10, unless authorized to do so in compliance with the *Canada Post Corporation Act*, RSC 1985, c C-10.
 - b. Without opening mail, an officer may screen mail arriving in Natuashish or destined for Natuashish by visual inspection, or by handling the exterior of the

mail, or by receiving a report of an employee of Canada Post who has done so, or using trained dogs or technology for screening, or by a combination of those means.

- c. An officer, having an honest belief in the existence of reasonable grounds to suspect a piece of mail arriving in or destined for Natuashish may contain a Prohibited Substance, and upon recording such reasonable grounds, may request a search of such mail by an appropriate employee of Canada Post or a police officer.
- d. A police officer or Canada Post employee may open and may otherwise search a piece of mail in Natuashish or destined for Natuashish if the search is consistent with the *Canada Post Corporation Act*, RSC 1985, c C-10.
- e. An officer may search an item that was previously mail after the item has been delivered to the addressee and is in their possession.
- f. Nothing in this by-law limits any search powers or other investigation or security powers that may apply to mail under the *Canada Post Corporation Act*, RSC 1985, c C-10 or under a law other than this by-law.

Without Limitation

- 10. For greater certainty, the search powers in this by-law are in addition to the search powers that may apply further to other laws, and do not restrict or limit other search powers in any way.

Discovery of Prohibited Substance

- 11. An officer who discovers alcohol in Natuashish or entering Natuashish shall:
 - a. report the discovery to the most senior Community Safety Officer on duty;
 - b. confiscate it;
 - c. pour it out in order to permanently dispose of it; and
 - d. notify the Council, and complete any forms, reports, statements or other records required by MIFN.
- 12. A Community Safety Officer who discovers an illegal drug in Natuashish or entering Natuashish shall:
 - a. if an RCMP officer or other police officer is present, inform them immediately and carry out their directions;

- b. if an RCMP officer or other police officer is not present, confiscate the illegal drug and deliver it to an RCMP officer or other police officer as soon as possible;
 - c. notify the Council, and complete any forms, reports, statements or other records required by MIFN; and
 - d. complete any forms, reports, statements or other records requested by an RCMP officer or other police officer about the discovery.
- 13. A Community Safety Officer who discovers cannabis in Natuashish or entering Natuashish they believe, on reasonable grounds, to be a Prohibited Substance under this by-law shall:
 - a. if an RCMP officer or other police officer is present, inform them immediately and carry out their directions;
 - b. if an RCMP officer or other police officer is not present, confiscate the illegal drug and deliver it to an RCMP officer or other police officer as soon as possible;
 - c. notify the Council, and complete any forms, reports, statements or other records required by MIFN; and
 - d. complete any forms, statements or other records requested by a an RCMP officer or other police officer about the discovery.

Enforcement – General

- 14. All officers are authorized to enforce all MIFN By-laws, unless the Council has specified a particular type of officer to enforce a certain by-law or part of a by-law.
- 15. Enforcement of MIFN By-laws may include any of the following:
 - a. Conduct of searches as set out in this by-law;
 - b. Service of a notice or any other document on a person;
 - c. Posting signs or other notices for purposes of enforcement;
 - d. Removal of a person from Natuashish or from a building or area within Natuashish;
 - e. Restricting a person from entering Natuashish;
 - f. Removal of any thing from Natuashish or restricting any thing from entering Natuashish;
 - g. Removal of any thing from a building or area within Natuashish;
 - h. Gaining entry to any MIFN-owned building in Natuashish;

- i. With Council authorization, changing locks on any MIFN-owned building in Natuashish and otherwise securing the building and surrounding area;
- j. Confiscating a Prohibited Substance and dealing with it in accordance with this by-law or another applicable law or by-law;
- k. Charging a person with an offence under this by-law or another MIFN By-law;
- l. Referring a person for completion of an Alternate Program under this by-law;
- m. Proceeding with removal of benefits as set out under this by-law; and
- n. Any other measure indicated for enforcement purposes or related to enforcement that is contained in an MIFN By-Law, for purposes of that that by-law.

Enforcement – Removal of Benefits

- 16. If an officer swears an information or otherwise documents in writing with their signature that a MIFN member has engaged in the manufacture, import, sale, distribution, exchange, purchase or possession of illegal drugs or illegal cannabis contrary to s. 2 of this by-law, or has acted contrary to the MIFN *Intoxicant By-law, 2008-01*, the officer's documentation shall be provided to the Council and the MIFN member shall lose access to MIFN benefits as follows:
 - a. in a first occurrence, for 6 months;
 - b. in a second occurrence or more, for such time as determined by the Council.
- 17. "MIFN benefits" in s. 16 means any financial benefit or in kind benefit provided by MIFN to its members, including but not limited to:
 - a. travel costs such as plane tickets, accommodations and meal expenses; and
 - b. purchase orders or reimbursement of expenses;but not including the provision of public services such as health care, education, housing, utilities, and the like.
- 18. In a loss of benefits under s. 16, the Council may consider exceptions for emergency circumstances.

Enforcement – Buildings Used

- 19. Any MIFN-owned building in Natuashish used for the manufacture, import, sale, distribution, or exchange of a Prohibited Substance, or that is commonly used for the possession or use of a Prohibited Substance, may be taken under the custody and control of the Council.

- a. The Council makes a determination under this section, on a balance of probabilities, having heard available evidence.
 - b. A residence may only be taken under the custody and control of the Council under this section only if the persons living in the residence have been notified of the allegation and provided with an opportunity to respond.
 - c. Once a determination is made by the Council, following (b) if applicable, persons may be required by the Council to leave the building, and if so notified, must leave within 30 days.
 - d. After the expiry of the 30 days in (c), Council has full custody and control of the building, and it may, without limitation, acting directly or by delegation:
 - i. Change locks and otherwise secure the building and surrounding area;
 - ii. Clean the building and surrounding area and dispose of any property remaining in or around it;
 - iii. Renovate, repair or tear down the building; and
 - iv. Re-allocate the building to any other MIFN member for residential use or re-allocate it for any other purpose it determines to be in the Mushuau Innu public interest.
20. Every building in Natuashish shall be considered a MIFN-owned building unless proven otherwise on a balance of probabilities.

Enforcement – Offences

21. Everyone commits an offence who:
- a. manufactures, imports, sells, distributes, exchanges, purchases or possesses an illegal drug or illegal cannabis in Natuashish contrary to s. 2;
 - b. obstructs the Council or a delegate of the Council in carrying out actions authorized under s. 19; or
 - c. obstructs an officer in the process of any search or any other enforcement action further to this by-law or further to any other MIFN By-law;

and such offence is punishable upon summary conviction of a fine not exceeding \$1,000 or imprisonment for a term not exceeding 30 days, or both.

Enforcement – Alternate Program

22. An officer who swears an information or otherwise documents in writing with their signature that they believe an offence has been committed contrary to a MIFN By-law, or

anyone prosecuting an offence under an MIFN By-law, may refer the person to Council for completion of an Alternate Program.

- a. An Alternate Program is a program determined by the Council with a view to restitution and rehabilitation.
- b. Council may accept or refuse a person for an Alternate Program.
- c. If Council accepts a person for an Alternate Program, the Council shall determine the Alternate Program for the person within 3 months and shall set it out in writing and provide it to the person required to complete it.
- d. The person required to complete the Alternate Program shall do so within one year of receiving the Alternate Program determined by the Council under (c), and they shall provide documentation to the Council of its completion.
- e. Upon completion of an Alternate Program with adequate documentation provided to the Council to verify its completion:
 - i. the Council shall confirm completion to the person who completed the Alternate Program;
 - ii. the Council shall notify the officer and, if applicable, prosecutor, who provided the referral;
 - iii. the person may not be charged with an offence under an MIFN By-law in relation to the acts that formed the basis for the referral; and
 - iv. if the person was already charged with an offence under an MIFN By-law in relation to the acts that formed the basis for the referral, the charge shall be withdrawn.

Limitation of Liability

23. No liability attaches to any action taken under this by-law in good faith, including for greater certainty any search or any enforcement measure, and this includes for greater certainty no liability to an officer, to MIFN, the Council, or to any councillor, employee, contractor, or agent of MIFN.

Interpretation

24. In this by-law:
 - a. "alcohol" has the same meaning as "intoxicant" in the MIFN *Intoxicant By-Law*, 2008-01;
 - b. "Alternate Program" includes any programs or activities determined by Council for restitution or rehabilitation or both, and includes without limitation: completing drug or alcohol treatment or a related program; completing other counselling or rehabilitative programs, including land-based programs; doing specific community service for the benefit of the Mushuau Innu community; and

carrying out actions to provide restitution to a person or place affected by the person;


- c. “Community Safety Officer”, also known as a CSO, means an individual designated as such by MIFN, who has completed a training program approved by the Council;
- d. “conflict of interest” means a direct conflict of interest, taking into account that Natuashish is a small community in considering what constitutes a conflict of interest;
- e. “Council” means the duly elected Council of Mushuau Innu First Nation, including its Chief and Councillors, and any power of the Council under this by-law may be exercised by a quorum of Council;
- f. “illegal cannabis” means cannabis or cannabis product that was grown, produced, in possession, or sold other than as specifically authorized under the *Cannabis Act*, SC 2018, c 16;
- g. “illegal drug” means a substance listed under the *Controlled Drugs and Substances Act*, SC 1996, c 19 for which possession or trafficking of the substance could form the basis of an offence under that Act, but does not include a substance held by an authorized person for authorized medical or other purposes if the person’s conduct in relation to the substance would not constitute an offence under that Act;
- h. “MIFN” means Mushuau Innu First Nation;
- i. “MIFN By-laws” means the by-laws of Mushuau Innu First Nation or any of them, whether made under MIFN’s inherent jurisdiction, MIFN’s authority of the *Indian Act*, RSC 1985, c I-5, or both;
- j. “Natuashish” means all lands defined as a “reserve” within the meaning of the *Indian Act*, RSC 1985, c I-5, and set apart for the use and benefit of Mushuau Innu First Nation, known as Natuashish Indian Reserve No. 2;
- k. “officer” means a Community Safety Officer, an RCMP officer, another police officer, or a peace officer within the meaning of the *Criminal Code*, RSC, 1985, c C-46;
- l. “Prohibited Substance” means an illegal drug, illegal cannabis, or an alcohol-based intoxicant; and
- m. “RCMP” means the Royal Canadian Mounted Police.


Coming into force

19. This by-law comes into force after its enactment on the day it is published in the *First Nations Gazette* or other internet site.


This *Enforcement and Search Powers By-law* is hereby enacted by a quorum of the Council of Mushuau Innu First Nation at a duly convened meeting on the __9th__ day of __April__, 2025.


Voting in favour of this by-law are:

John Nui, Chief: 

Mary-Lucy Dicker, Deputy Chief: 

Angela Pasteen, Councilor: 

Mathias Rich, Councilor: 

Len Scott Rich, Councilor: 

Sebastian Piwas, Councilor: 

Patricia Andrew Councilor: 