



Pikangikum First Nations

Pikangikum, Ontario P0V 2L0

Tel. No.: 807-773-5578 / 773-5523

PIKANGIKUM FIRST NATIONS INTOXICANT BY-LAW

#90-1

- 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 Pikangikum First Nations people, thereby threatening the present and future peace, health and well-being of the Pikangikum 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 Pikangikum Reserve #14 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 By-laws concerning intoxicants, including search warrants;
- AND WHEREAS effective enforcement of many of the provisions of this Intoxication By-law requires a speedy response to prevent destruction of evidence, escape, avoidance of prosecution and the like;
- AND WHEREAS the Chief and Council of the Pikangikum First Nations have the power under the Indian Act to make By-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 by-laws; and
- e) respecting intoxicants, including by-laws declaring the complete prohibition of intoxicants from the Reserve (Section 85.1).

AND WHEREAS the Council of the Pikangikum First Nations must be adequately protected and respected in their duty to enforce the control of intoxicants at the Pikangikum First Nations Reserve #14;

AND WHEREAS the Chief and Council called a special, open and advertised meeting for all the residents of the Pikangikum Reserve on the 9th day of May, 1990, in order that all persons be able to contribute to the design of an Intoxication By-laws reflecting the community's view of the appropriate balance to be drawn between respecting individual rights and creating effective control over intoxicants within the Pikangikum Reserve #14;

AND WHEREAS a majority of electors of the Pikangikum First Nations who voted in a subsequent special referendum on May 11, 1990 held for the purpose of considering approving the bylaw at the Pikangikum Reserve #14 assented to the establishing of an Intoxication Control By-law in the following form, and to the inclusion in that By-law of the recitals heretofore recorded;

NOW THEREFORE the Council of the Pikangikum Band enacts as its Intoxication Control By-law those recitals and rescinds Pikangikum By-law 85.1 of 1985.:

DEFINITIONS

1. In this By-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 of 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 By-law.

EXCEPTIONS

2. No offence is committed against the provisions of this By-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 Pikangikum First Nation to seize the intoxicant.

OFFENSES AND PENALTIES

3. a) Everyone who is intoxicated on the Reserve 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;
- b) Everyone who is in possession of an intoxicant on the Reserve 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;
- 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, or both;
- 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;

- 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;
- 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;
- 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;

SEARCH AND SEIZURE

- 4. a) A Band Constable, other authorized peace officer, a member or members of the Chief and Council, or a Band member where authorized by the Band 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 By-law; or
 - ii) if the person is or appears to be intoxicated, whether or not that person is arrested or charged with an offence in respect of that apparent intoxication.
- b) The Band Council may authorize a Band member or members to assist a Band Constable or other peace officer or the Chief or a Councillor or Councillors 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 Pikangikum First Nations Community.

POINTS OF ENTRY ONTO THE RESERVE

- WHEREAS it is fundamental to the health, safety, security, peace and order of the Pikangikum First Nations Reserve that its Intoxication Control By-laws be effectively enforced;
- AND WHEREAS effective enforcement of the said By-law cannot be accomplished without effectively controlling the importation of intoxicants at points of entry onto the Reserve;
- AND WHEREAS deterrence is more humanely and effectively accomplished by increasing the risk of detection rather than by increasing penalties for breaches of the said By-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;

5. A Band Constable, other authorized peace officer, a member or members of the Band Council may, at all points of entry onto the reserve, without warrant and without grounds to believe or suspect that an offence under this By-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 Band Constable, other authorized peace officer, member or members of the Band Council may, without 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 By-law; AND;
 - b) the prior approval of the Chief or the Deputy Chief or any two members of Band 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 Band 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 Band Constable, other authorized peace officer or members of the Band Council 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 therein.

SEIZURE OF UNLAWFUL INTOXICANTS

8. A Band Constable, other authorized peace officer or Band Councillor or Chief may seize all intoxicants which he believes on reasonable grounds have been possessed or used in contravention of the provisions of this By-law.

EVICCTIONS

9. Any person not a member of the Pikangikum First Nations or ordinarily resident in the Pikangikum First Nations community who is found intoxicated in the Pikangikum Reserve or in possession of intoxicants in the Pikangikum Reserve shall be subject to prosecution under the provisions of this By-law and the Band Council shall have the right to evict such person from the Pikangikum Reserve at his expense.

PROTECTION OF CHIEF, COUNCIL AND BAND MEMBERS

10. Any person who threatens or causes or attempts to cause any injury or bodily harm to any member of the Council of the Pikangikum First Nations or to any Band member working on behalf of the Council in enforcing this By-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.

PROVISO

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



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.

The council of the / Le conseil de la bande indienne: <i>Pikangikum First Nation</i>	Current Capital Balance / Solde de capital: \$ _____
Agency District: <i>Sioux Lookout</i>	Committed Engagé: \$ _____
Province: <i>Ontario</i>	Current Revenue Balance / Solde de revenu: \$ _____
Place / Nom de l'endroit: <i>Pikangikum</i>	Committed Engagé: \$ _____
Date: <u>24</u> / <u>5</u> / AD 19 <u>90.</u> Day - Jour / Month - Mois / Year - Année	

DO HEREBY RESOLVE / DÉCIDE PAR LES PRÉSENTES:

WHEREAS: An election was held on May 11, 1990, to vote on Band By-law 90-1,

WHEREAS: All eligible voting Band Members, were encouraged to vote,

WHEREAS: The majority of the votes were in favor of accepting the Band By-law 90-1,

Therefore be it resolved that Band By-law 90-1 will be in effect and enforced 4 days after the accepted date of May 11, 1990,

Therefore be it further resolved that Band By-law 90-1 will be in operation and respected by all Band Members, and residents of Pikangikum Reservation NO. 14,

Therefore, be it further resolved that Band By-law 90-1 will be used and until a proceeding R.C.R. states otherwise.

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

consists of / fixé à: 5

Council Members / Membres du Conseil:

Alex. Sanyjshke
(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

[Signature]
(Chief - Chef)

[Signature]
(Councillor - Conseiller)

[Signature]
(Councillor - Conseiller)

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(Councillor - Conseiller)

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(Councillor - Conseiller)

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(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

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