

CERTIFIED TRUE
Shelton

BY-LAW NO. 1-98
of the Nipissing First Nation
A By-law For the Prevention of
Disorderly Conduct and Nuisances
on Nipissing Reserve No. 10

Helen Restoule, a Commissioner, etc.,
of Ontario, for the Government of
Indian and Northern Affairs
October 28, 2000.

WHEREAS the Council of the Nipissing First Nation desires to make a by-law governing the prevention of disorderly conduct and nuisances, with respect to any matter arising out of or ancillary to the exercise of powers under Section 81, and for the imposition of a penalty for a violation thereof;

AND WHEREAS the Council of the Nipissing First Nation is empowered to make such by-law pursuant to paragraphs 81(1) (d), (q) and (r) of the Indian Act;

AND WHEREAS it is considered to be expedient and necessary for the benefit, comfort and safety of the inhabitants of the Nipissing First Nation to provide for the prevention of disorderly conduct and nuisances on the Nipissing Reserve No. 10;

NOW THEREFORE the Council of the Nipissing First Nation hereby makes the following by-law:

Short Title:

1. This by-law may be cited as the "Nipissing Reserve Disorderly Conduct and Nuisances By-law".

Interpretation:

2. In this by-law,

"**First Nation**" means the Nipissing First Nation;

"**Council**" means the Council, as defined in the Indian Act, of the Nipissing First Nation;

"**Firearm**" means any rifle, gun or pistol, including an air or pellet gun and a long bow and crossbow;

"**Disorderly conduct**" means any act or behaviour, including:

- (a) fighting;
- (b) making or causing unreasonable noise;
- (c) using abusive language;
- (d) using offensive or indecent gestures or displays;
- (e) being drunk;
- (f) loitering;
- (g) firing or discharging any gun, pistol or other firearm, in an unsafe manner within any residential area, except in defence of life or property;
- (h) using or threatening to use a firearm or any other article as a weapon;
- i) interfering in any manner with the orderly conduct of commercial, administrative, educational, recreational, health care, religious or ceremonial activities on the Reserve,

that disrupts public order on the reserve, or causes public inconvenience, annoyance or alarm;

"**Nuisance**" means any act, activity or condition, including:

- (a) the dumping or storage of tires, garbage or other refuse including fish, game and wildlife refuse;
- (b) the abandonment of cars, household appliances or furniture, or parts of cars, household appliances or furniture;

- (c) the storage of abandoned cars, household appliances or furniture, or parts of cars, household appliances or furniture;
- (d) the burning of, or discharging of any harmful substance into the air or water;
- (e) excessive noise, which includes persistent barking, whining or other similar persistent noise making by any domestic pet;

that materially impairs, otherwise than by direct physical interference, the use and enjoyment of a person's property, or that prejudicially affects a person's health, comfort or convenience or the public health, safety or welfare of the reserve community, but does not include any act, activity or condition to the extent it is unavoidably necessary for carrying on any business or other means of livelihood authorized by the Council;

"Officer" means any band police officer, band police constable or other person charged with the duty to preserve and maintain the public peace, and a by-law officer or any other person appointed by the Council for the purpose of maintaining law and order on the reserve;

"Person" includes a corporation;

"Reserve" means all of the reserves set aside for the Nipissing First Nation;

"Residential area" means where there is a permanent residence;

Disorderly Conduct:

- 3. (1) Every one who commits an act of disorderly conduct is guilty of an offence.
- (2) An officer may order any person who is engaging in any disorderly conduct to stop such conduct immediately.

Nuisance:

- 4. (1) Every one who creates or causes, or permits a nuisance is guilty of an offence.
- (2) An officer may order any person who is causing or who threatens to cause a nuisance on the reserve to refrain from causing the nuisance or to abate the nuisance within such period as is reasonable in the circumstances.
- (3) In determining whether a period fixed by an officer under subsection (2) was reasonable in the circumstances, a court shall take into account:
 - (a) the nature and extent of the nuisance;
 - (b) the methods available to abate the nuisance;
 - (c) the approximate time required to abate the nuisance; and
 - (d) the effect of the order on any business or means of livelihood of the person who is the subject of an order.

Enforcement:

- 5. (1) Where a person who has been ordered to stop engaging in disorderly conduct, or to refrain from causing a nuisance or to abate a nuisance within a specified period, fails or refuses to comply with the order, an officer may take such reasonable measures as are necessary to stop the disorderly conduct, or to prevent or to abate the nuisance.

- (2) A person who fails or refuses to comply with an order made under subsection 3(2) or subsection 4(2), or who resists or interferes with an officer acting under subsection 3(2) or subsection 5(1), commits an offence.

Penalty:

- 6. A person who commits an offence under this by-law is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding thirty days, or to both.

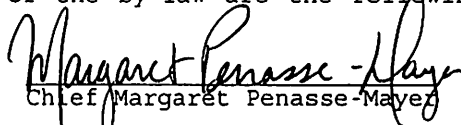
READ A FIRST TIME IN OPEN COUNCIL THE 7th DAY OF April, 1998.


READ A SECOND TIME IN OPEN COUNCIL THE 21st DAY OF April, 1998

READ A THIRD TIME IN OPEN COUNCIL AND ENACTED AND PASSED THIS 5th DAY OF May, 1998.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Nipissing First Nation this 5th day of May, 1998.

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


 Chief Margaret Penasse-Mayer

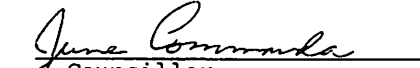

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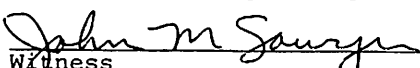

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Councillor

being a majority of those members of the Council of the Nipissing First Nation present at the aforesaid meeting of the Council.

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

I, Margaret Penasse-Mayer, Chief of the Nipissing First Nation, do hereby certify that a true copy of the foregoing by-law was mailed to the Minister of Indian and Affairs and Northern Development at the District office pursuant to subsection 82(1) of the Indian Act, this 5th day of May, 1998.


 Witness
 Councillor


 Chief