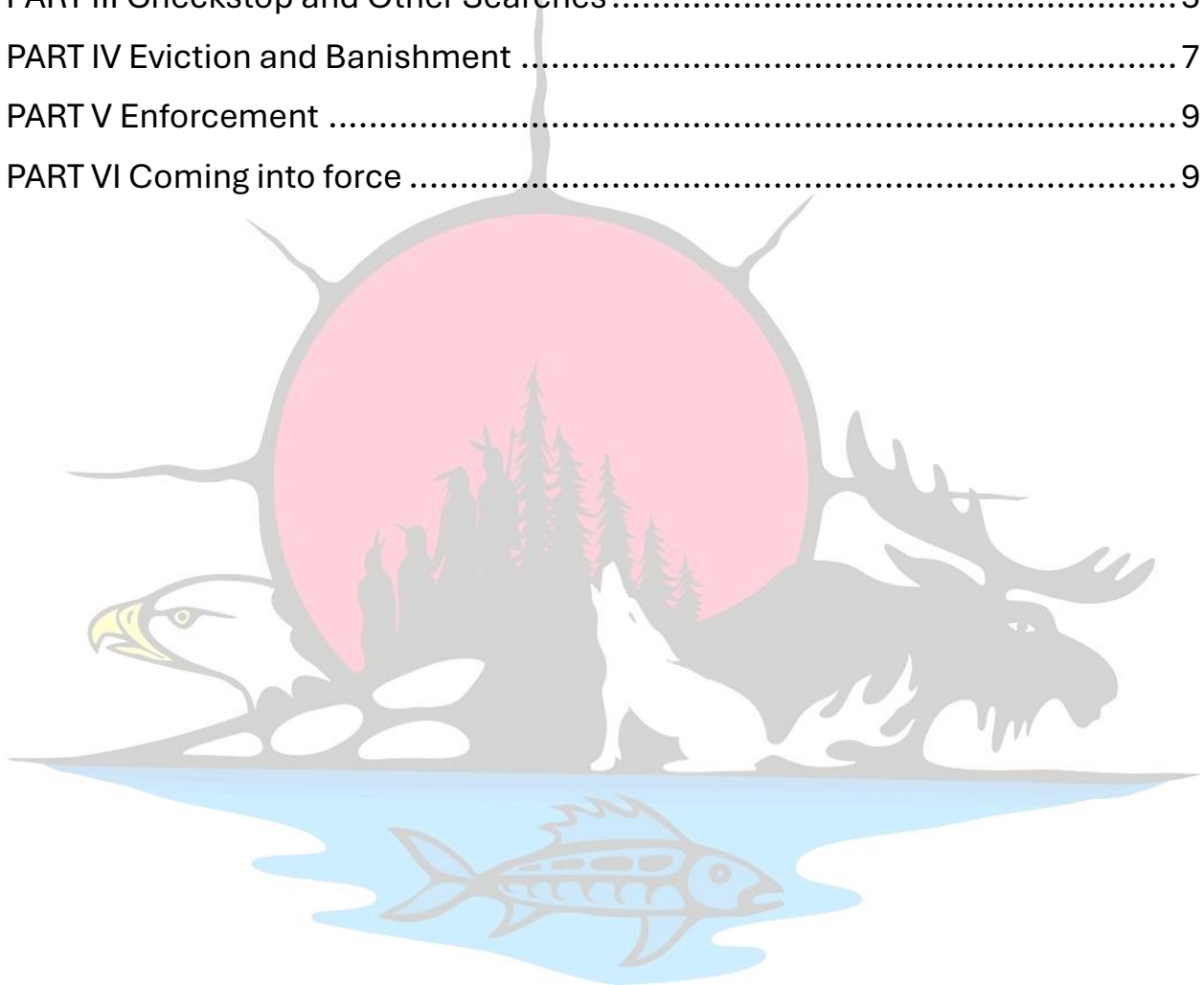




Misipawistik Cree Nation Community Protection Law

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Preamble

Whereas it is in the best interests of the Misipawistik Cree Nation to enact a law to protect the safety of the community, children, and other vulnerable persons from exposure to violent crime, gang activity, illegal drugs, bootlegging, abuse of alcohol, sexual exploitation, human trafficking and abuse on or adjacent to MCN Lands;

Whereas MCN recognizes the importance of collective rights and the priority of those rights over the individual rights in order to maintain peace, order and safety with the community;

Whereas MCN may prohibit harmful substances or people from entering Misipawistik Cree Nation Reserve, grant authority to persons to conduct inspections of persons and vehicles entering MCN Lands and banish people who engage in harmful activities including gang activity, harbouring person engaged in human trafficking, criminal activity or other conduct that is harmful to MCN from MCN Lands;

Whereas MCN has the authority under Section 6 of the MCN Land Code to enact MCN Laws and Section 7.3 of MCN Land Code to enact MCN Laws urgently required for public health or safety or to stop or prevent criminal activity on or adjacent to MCN Lands.

Now therefore this law is hereby enacted as Misipawistik Cree Nation Community Protection Law.

PART I Preliminary Matters

1. Title

The title of this law may be cited as the Misipawistik Cree Nation Community Protection Law.

2. Definitions

“Alcohol” – means beer, wine, liquor, home brew and any other product intended for human consumption that contains more than 1% alcohol by volume.

“Cannabis” – means any part of a cannabis plant as defined in the laws of Canada.

“Community Land” – means any Misipawistik Cree Nation land in which all members have a common interest, and which have not been allocated.

“Council” – means the Chief and Council of the Misipawistik Cree Nation.

“Drugs” – means a controlled substance as defined in the laws of Canada.

“Drug Activity” – means producing, providing, selling, storing, trafficking, or possessing drugs, prescription drugs without a valid prescription or intoxicants without a valid permit.

“First Nation” – means the Misipawistik Cree Nation.

“Gang Activity” – means activities undertaken by an organized group of people who rely on intimidation, violence, and the commission of criminal acts in order to gain power, recognition or to control other people or certain areas of unlawful activity.

“Harbouring” – means a person who hides another person who the person knew or ought to know is a vulnerable person in need of protection, a criminal offender, suspect or an accessory to a crime or that there is an outstanding warrant for that person’s arrest.

“Human Trafficking” – means the recruitment, transportation, or exercising control, direction, or influence over the movements of a person in order to exploit that person through sexual or other types of exploitation or forced labour.

“Intoxicants” – means industrial, commercial, or household products including but not limited to hand sanitizer, fertilizer, duct tape, and Lysol which are not meant to be ingested or inhaled.

“Law” – means a law enacted pursuant to MCN Land Code

“Member” – means a person whose name appears or is entitled to appear on the Misipawistik Cree Nation band membership list.

“Misipawistik Cree Nation Land” – means any portion of a reserve that is subject to this Land Code under section 5.

“Motorized Vehicle” – includes but is not limited to cars, trucks, motorcycles, boats, personal watercraft, recreational vehicles, snowmobiles, and all-terrain vehicles, with or without a human operator.

“Non-motorized Vehicles” – includes but is not limited to bicycles, dog sleds and canoes.

“Prescription Drug” – means a drug that is obtained or supposed to be obtained by a prescription issued by an authorized practitioner.

“Safety Officer” means the First Nations Safety Officer appointed by Misipawistik Cree Nation Chief and Council, with authority to enforce MCN Laws and to maintain peace, order and safety on MCN Lands.

“Social Occasion Liquor Permit” – means the permit that is required by the Liquor, Gaming and Cannabis Authority of Manitoba (LGCA), if there are plans to sell or serve alcohol at a one-time special occasion such as a social, charity fundraiser or wedding reception.

3. Scope and Application

Subject to Section 6.3 of the MCN Land Code “The Council may in accordance, with this Land Code, make laws respecting the development, conservation, protection, management, use and possession of Misipawistik Cree Nation lands, interests, and licences in relation to those lands. This power includes the power to make laws in relation to any matter necessary to the making of laws in relation to the Misipawistik Cree Nation land.

Subject to Section 7.3 of the MCN Land Code “The Council may enact a law without the preliminary steps required under Section 7.2, if the Council is of the opinion that the law is needed urgently to Misipawistik Cree Nation land or the members. However, the law expires 120 days after its enactment, unless re-enacted in accordance with section 7.2”.

PART II Prohibitions on Alcohol and Illegal Drugs

4. Unauthorized manufacture or sale of alcohol, drugs, prescription drugs or intoxicants

Unless there is a valid Social Occasion Liquor Permit, no person shall sell alcohol on MCN Lands.

No person shall manufacture, produce, grow, or sell cannabis, drugs, prescription drugs or intoxicants on MCN Lands.

5. Unlawful purchase of alcohol drugs, prescription drugs, or intoxicants

A person must not purchase alcohol, cannabis, drugs, prescription drugs, intoxicants from a person who is not authorized to sell such substance.

6. Prohibition on buying or selling drugs

No person shall buy, sell, or transport cannabis, drugs, intoxicants, or prescription drugs on MCN Lands.

7. Unlawful transportation onto MCN Lands

A person must not transport or conceal in a motorized vehicle or non-motorized vehicle, for transportation onto MCN Lands more cannabis or prescription drugs unless approved by an authorized practitioner.

8. Prohibition of alcohol or cannabis in public places

Except as permitted by the LGCA, a person must not distribute or consume alcohol or cannabis in a public place.

9. Places alcohol or cannabis can be used

Alcohol or cannabis may only be consumed in a residence or on premises where the permit issued by the LGCA states, and the occupier of the residence or other building on MCN Lands must ensure no gang activity, harbouring, human trafficking, or illegal drug activity occurs in the residence or premises.

10. Alcohol or drugs not to be provided to intoxicated persons

A person must not give, sell, or otherwise supply alcohol, cannabis, drugs, prescription drugs without a valid prescription or intoxicants to a person who is or appears on reasonable grounds to be intoxicated.

11. Obligation to prevent disturbances from alcohol consumption

The occupier of a residence or other premises must not allow any person to become intoxicated and cause violence or other disturbances in the residence or premises or in its immediate vicinity from the consumption of alcohol and the occupier of a residence or other premises shall be responsible for the safety of any person who consumes alcohol, cannabis, drugs, prescription drugs without a valid prescription and intoxicants at the occupiers residence or other premises.

12. Transporting alcohol or cannabis on motorized vehicles

A person must not drive or have the care and control of a motorized vehicle, whether or not the vehicle is in motion, if there is alcohol or cannabis in the motor vehicle unless the alcohol or cannabis has not been opened or unsealed and it is stored in a trunk, behind the last seat in a vehicle with open trunk space, in an exterior carrier or in a storage area that is part of the motor vehicle where it cannot be accessed by persons in the motor vehicle.

13. Minors

A person must not give, sell, or otherwise supply alcohol, cannabis, or other drugs to a minor unless such cannabis or other drugs have been prescribed by a Doctor, Dentist or Nurse Practitioner for the minor or are available for purchase from a duly licensed vendor or pharmacy.

PART III Checkstop and Other Searches

14. Checkstop

Chief and Council may establish a checkstop on or adjacent to MCN Lands for MCN Safety Officers and RCMP to conduct inspections of persons, motorized vehicles and non-motorized vehicles on or entering MCN Lands to confirm the persons in such vehicles:

- a. Have proper licensing;
- b. Have possession of, or transporting alcohol, cannabis, drugs, prescription drugs or intoxicants are not doing so contrary to this Law or the regulations;
- c. Are not being inappropriately harboured on MCN Lands;
- d. Are not being exploited or the subject of human trafficking or gang activity;
- e. Are not in violation of any banishment order issued pursuant to MCN Laws, Band Council Resolutions or any court order issued by a court of competent jurisdiction; and
- f. Are not violating any other laws.

15. Search and refusal of Entry onto MCN Lands

All motorized vehicles, non-motorized vehicles, persons and any personal property in such vehicles or on such persons may be searched prior to being allowed entry onto MCN Lands and any person who refused to be searched shall not be allowed entry onto MCN lands.

16. Special Procedures to search sacred bundles

A Safety Officer shall request a person who is in possession of a sacred bundle or object to open the bundle or object and show the safety officer or RCMP Officer its contents who shall not examine or touch the sacred bundle or its contents without the permission of the owner, but if the person refuses to open the bundle at the request of the safety officer, the person shall not be allowed entry onto MCN Lands.

17. Confiscation illegal substances

Any illegal substance found during a search of a person, a sacred bundle or vehicle will be confiscated by the Safety Officer or RCMP.

18. Other authorized searches

If Chief and Council believes on reasonable and probable grounds that drug activity, gang activity, human trafficking, or harbouring is occurring on MCN Lands or adjacent to MCN Lands, Chief and Council may make any order it considers advisable to allow a safety officer or RCMP Officer to inspect the MCN Lands and any buildings on such lands.

19. Revocation of benefits or interests

Without limiting any order made by the Chief and Council under subsection (18), the order may include temporary or permanent removal of the person and the person's family from the residence or any other building on MCN Lands, removal from MCN Lands, notification of the relevant child and family services authority if children are involved and revocation of any benefits being received by the person who is subject to the search or any interest a person may have in MCN Lands.

20. Reconsideration

Any person directly affected by an order under this section may within seven (7) days of the order apply to the Justice Committee under Section 39 of MCN Land Code for reconsideration of the order.

21. Onus

The onus is on the applicant in a request for reconsideration to establish that the order was:

- a. Unnecessary because no drug activity, gang activity, human trafficking or harbouring was occurring;
- b. Not made on reasonable and probable grounds; or
- c. Inappropriate in the circumstances.

22. Remedies

The Justice Committee may set aside, vary with or without conditions, or confirm the order.

PART IV Eviction and Banishment

23. Authority to evict or banish

A person who:

- a. Poses a significant threat to the health, safety, or wellbeing of MCN or any person residing on or visiting MCN Lands;
- b. Has engaged in human trafficking, harbouring, or other criminal activity; or
- c. Refuses to comply with MCN Laws,

may be evicted from any residence, building or other premises or banished from MCN Lands by order of Chief and Council or any person or entity whom Chief and Council has delegated such authority by regulation.

24. Process to be followed

If Chief and Council approve an order of eviction or banishment pursuant to subsection (23) the Chief and Council shall issue a notice of the eviction or banishment order within two (2) business days which notice shall contain:

- a. The name of the person evicted or banished;
- b. A brief description of the basis for the eviction or banishment;
- c. Any other information Chief and Council considers relevant and appropriate in the circumstances.

and a copy of the notice of the eviction or banishment order shall be delivered to the housing department, RCMP and if possible, to the person named in the order, within three (3) business days of it being issued.

25. Eviction order hearings

Any person who receives a notice of an eviction order may request a hearing before the Justice Committee within seven (7) days from the date the notice is issued to present information about why the eviction order should be rescinded.

26. Banishment order hearings

Any person who is banished from MCN Lands may, as part of restorative justice, request a hearing before the Justice Committee, no earlier than five (5) years from the date of the banishment order or if the person has been sentenced to jail, no earlier than five (5) years from the date the person is released from jail, to request the banishment order be rescinded.

27. Submissions at hearing

The Justice Committee shall take into consideration any submissions made by or on behalf of the person who is the subject of an eviction or banishment order, Chief and Council, and any victims of the person and shall provide a recommendation to Chief and Council whether to rescind or confirm the order with or without conditions.

28. Decisions following the hearing

If a person could not be served with a copy of the order after reasonable attempts were made, does not appear at a hearing scheduled pursuant to this subsection or appears and makes submissions but the order is not rescinded, the Justice Committee shall confirm the date the order is to take effect and the Chief and Council shall forthwith notify the RCMP and post the order on MCN Lands and the MCN website and social media pages.

29. Register

The Chief and Council shall establish and maintain a register of persons who have been evicted or banished in accordance with the regulations or any band council resolution issued prior to this law coming into effect.

30. Trespass

Any person who:

- a. Is the subject of a banishment order that has not been rescinded and enters upon MCN Lands;
- b. Is the subject of an eviction order that has not been rescinded and enters into the building or premises from which the person has been evicted;
- c. Does not have a valid residency or work permit to enter MCN Lands; or

- d. Where no permission has been granted by the Chief and Council and has failed to report to a member of the Chief and Council upon entry onto MCN Lands,

Shall be guilty of trespassing and may be removed by the Safety Officer or RCMP.

PART V Enforcement

31. Offences

Any person who violates the provisions of this Law is guilty of an offence and is subject to the penalties imposed by this Law or any other MCN Law, in addition to any other penalties imposed by Canada or Manitoba.

32. Penalty

Any person who is guilty of an offence under this Law is liable on summary conviction to a fine of not more than five thousand dollars (\$5,000.00) or to a term of imprisonment not exceeding six (6) months or both.

33. Community Service

A person who is sentenced under subsection (32) may in addition be required to perform community service as part of giving effect to the customary law principles of *Misipawistik isihtwawina*.

PART VI Coming into force

34. Effective date

This law comes into force on

