



## Akwesasne Drug Law

Kaiahnehronshera iehiontakwa Number: 2015-03

Mohawk Council Resolution: 1999/2000-#098

Date Enacted: June 3, 1999

Coming into Force: October 1, 1999

## AKWESASNE MOHAWK COUNCIL RESOLUTION

1999/2000-# 98



THE	MOHAWK COUNCIL OF AKWESASNE		CURRENT CAPITAL BALANCE	\$ _____
AGENCY	SOUTHERN ONTARIO DISTRICT		COMMITTED	\$ _____
PROVINCE	ONTARIO / QUEBEC		CURRENT REVENUE BALANCE	\$ _____
PLACE	St.Regis Recreation Center		COMMITTED	\$ _____
DATE	<u>3</u> DAY	<u>June</u> MONTH	<u>1999</u> YEAR	

DO HEREBY RESOLVE:

MOVED: Steve ThomasSECONDED: Georgy Adams

Whereas, the Mohawk Council of Akwesasne held a Special General Meeting in November 1997, in order to discuss local drug problems with the community; and

Whereas, the community consequently instructed Mohawk Council and the Akwesasne Justice Department to develop laws addressing any such local drug problems; and

Whereas, the Legislative Committee of the Justice Department subsequently developed proposed Drug and Banishment Laws after consulting the community through focus group meetings, district meetings, radio-talk shows, newspaper publications, and direct home-mailings of Legislative Committee proposals; and

Whereas, the community was presented with the final proposed draft Drug and Banishment Laws at a Special General Meeting on April 8, 1999; and

Whereas, the community subsequently instructed Mohawk Council to determine the community's acceptance of the proposed Laws by way of Referendum of eligible voters on May 29, 1999; and <sup>whereas</sup> the Referendum question, "Do you accept and ratify the Drug and Banishment Laws as Akwesasne Mohawk Laws?" was posed to the eligible voters, in accordance with the Akwesasne Election and Voting Custom Regulations, on May 29, 1999; and

Whereas, the official results of the voting are as follows:

Yes - 236  
No - 53; and

Whereas, the appeal period for contesting any aspect of the Referendum, pursuant to the provisions of the Akwesasne Election and Voting Custom Regulations, expired at 5:00 p.m. on June 3, 1999;

FOR DEPARTMENTAL USE ONLY					
1. BAND FUND CODE	2. COMPUTER BALANCE		3. EXPENDITURE	4. AUTHORITY -- INDIAN ACT	5. SOURCE OF FUNDS <input type="checkbox"/> CAPITAL <input type="checkbox"/> REVENUE
	CAPITAL \$ _____	REVENUE \$ _____			
6. RECOMMENDED			APPROVED		
DATE	RECOMMENDING OFFICER		DATE	APPROVING OFFICER	

FILE REFERENCE

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DATE	<u>3</u> <u>June</u> <u>1999</u> DAY MONTH YEAR		

DO HEREBY RESOLVE:

MOVED: Steve Thomas  
SECONDED: George Adams

Therefore Be It Resolved that the Mohawk Council of Akwesasne formally accepts the results of the Referendum conducted on May 29, 1999, and hereby proclaims that the proposed Akwesasne Drug Law and the Akwesasne Banishment Law shall become official legislation of the Mohawk community of Akwesasne on October 1, 1999.

*carried*

\_\_\_\_\_  
GRAND CHIEF

\_\_\_\_\_  
CHIEF

Timothy Thompson  
CHIEF

Vaugh Phillips  
CHIEF

George Adams  
CHIEF

Timothy Thompson  
CHIEF

Kevin Roundpoint  
CHIEF

\_\_\_\_\_  
CHIEF

\_\_\_\_\_  
CHIEF

\_\_\_\_\_  
CHIEF

\_\_\_\_\_  
CHIEF

THIS MEETING TOOK PLACE IN THE TERRITORY OF AKWESASNE, WITH THE FOLLOWING MEMBERS OF THE AKWESASNE MOHAWK COUNCIL PRESIDING.

RECORDED VOTE:

FOR: \_\_\_\_\_

AGAINST: \_\_\_\_\_

ABSTENTION: \_\_\_\_\_

FOR DEPARTMENTAL USE ONLY					
BAND FUND CODE	2. COMPUTER BALANCE		3. EXPENDITURE	4. AUTHORITY — INDIAN ACT	5. SOURCE OF FUNDS <input type="checkbox"/> CAPITAL <input type="checkbox"/> REVENUE
	CAPITAL	REVENUE			
	\$ _____	\$ _____	_____		
RECOMMENDED			APPROVED		
_____ RECOMMENDING OFFICER			_____ DATE		
			_____ APPROVING OFFICER		

MOHAWK COUNCIL OF AKWESASNE

March 8, 1999

DRUG LAW

(or the "Warning and Conviction Law)

being a Law to stop the activities of people  
dealing in the traffic of drugs

PREAMBLE

WHEREAS the usage, possession, cultivating, selling, manufacturing and trading in drugs are prohibited within the Mohawk Territory of Akwesasne and such activity is contrary to community standards;

WHEREAS the Mohawk Council of Akwesasne is taking all means to discourage the usage, possession, cultivating, selling, manufacturing and trading of illicit and/or controlled drugs within the Territory;

WHEREAS Community institutions have implemented policies to discourage drug use and to offer counseling which the Mohawk Council of Akwesasne supports;

WHEREAS the usage, cultivating, selling, manufacturing and trading in illicit and controlled drugs is against the spirit and essence of Mohawk traditions and customs;

WHEREAS the Mohawk society has traditionally recognized the importance of the collective rights of the community and the priority of those collective rights over individual rights;

WHEREAS the Mohawk of Akwesasne have Aboriginal and treaty rights and other rights and freedoms that are recognized and affirmed in the Constitution of Canada, which includes self-determination and control over lands, people and resources;

WHEREAS the Mohawk Council of Akwesasne intends to preserve the cultural and social integrity of the Mohawk Territory and community of Akwesasne;

WHEREAS the Mohawk Council of Akwesasne is taking all the means necessary to protect the people, especially the children, of the community against the harmful effects of drugs;

WHEREAS the Mohawk Community of Akwesasne has been consulted through a series of meetings and has given direction to the Mohawk Council to develop a Law to banish a person eighteen (18) years of age or older who have breached community standards of behavior;

WHEREAS Akwesasne is concerned about the involvement of young persons with drugs and will address procedures dealing with persons under eighteen (18) years of age in a separate law.

THE MOHAWK COUNCIL OF AKWESASNE THEREFORE DEEMS IT PROPER TO ENACT THE PRESENT LAW.

## **PREAMBLE**

1.1 The preamble forms part of this Law.

## **TITLE**

2.1 This Law may be referred to as the “**Akwesasne Drug Law**”.

## **GENERAL PRINCIPLE**

3.1 This Law enables specific groups of community members, as well as the Police Services, to warn a local person(s) known to traffic in illicit drugs to cease their illegal activities. If the warnings are not heeded, this Law enables the community Prosecutor to initiate banishment procedures in the Mohawk Court pursuant to the Mohawk Banishment Law.

3.2 This Law, together with the Banishment Law, is based on Mohawk customary law which enables the community to expel people who refuse to abide by standards of behavior set out by the community. Consistent with Mohawk Customs, this Law provides through the warning system that before such a person is banished they must be given an opportunity to change their ways.

3.3 The Law concerns any person eighteen (18) years of age or older, found in the Territory of Akwesasne, trafficking in drugs. This includes activities relating to the manufacturing, selling, giving, administering, cultivating, trading and transport of drugs, encouraging young people to consume drugs, to recruiting people to sell or convey drugs, or generally, to carry on activities relating to the creation, distribution or promotion of illegal drugs.

## **DEFINITIONS**

4.1 In this Law:

“Banishment Proceedings” means proceedings pursuant to the Akwesasne Banishment Law;

“Conspire” means to form an agreement with one or more persons with the intent to commit an illegal act as set out under this Law;

“Council” means the Mohawk Council of Akwesasne;

“Drugs” means the controlled substances listed in Schedule I, II, III, IV of the Controlled Drugs and Substance Act, Statutes of Canada. 1996 c. 19 (and amendments), or any substance that contains such drugs, or anything used to produce such drugs, or found in their synthetic or natural forms;

“Eligible Voters” means persons eligible to vote pursuant to the Akwesasne Election and Voting Custom Regulations;

“Family” includes spouse or common-law spouse, children and siblings that are 18 years of age or older, parents and grandparents;

“Justice Department” means the Akwesasne Justice Department;

“Member” means a person who is registered or entitled to be registered as a member of Akwesasne under the Akwesasne Membership Code;

“Mohawk Court” means the Akwesasne Mohawk Court exercising jurisdiction within the Territory of Akwesasne;

“Police” means the Akwesasne Mohawk Police Services or member thereof;

“Prosecutor” means the official retained by Council to prosecute offenses under this Law, and includes the Office of the Prosecutor;

“Territory” means the geographic area over which Council has jurisdiction;

“Traffic” means the act of, or the attempt to, cultivate, sell, give, administer, transport, send, deliver, distribute, trade or manufacture drugs, encourage young people to use drugs, recruit people to sell or convey drugs or being in possession of a quantity of drugs deemed to be greater than would be needed for that person’s own immediate use.

### **LEGAL MANUFACTURE, DISTRIBUTION OR POSSESSION OF DRUGS**

- 5.1 This Law does not apply to those drugs or substances manufactured or possessed legally.
- 5.2 For the purposes of this section, “manufactured or possessed legally” means manufacture or possession for the purpose of sale or distribution to others by legally qualified physicians or pharmacies or possession for use for legally approved medicinal or therapeutic purposes through prescription.
- 5.3 This Law does not apply to traditional medicines that have historically been used by Iroquois people.

### **APPLICATION OF THE LAW**

- 6.1 This Law applies to all persons eighteen (18) years of age or older residing in or entering onto the Territory of Akwesasne.

### **MOHAWK COURT**

- 7.1 Mohawk Court has jurisdiction regarding all matters relating to this Law, including all matters relating to the interpretation and application of this Law.

## **AKWESASNE MOHAWK POLICE SERVICE**

8.1 Akwesasne Mohawk Police Services shall have jurisdiction to carry out the duties prescribed to them under this Law.

## **TRAFFICKING IN DRUGS**

9.1 No person shall traffic, or conspire to traffic, in drugs within or through the Territory.

## **THE WARNING PROCESS**

### **THE COMMUNITY WARNING**

10.1 The enactment and publication of this Law shall constitute a first warning to all persons eighteen (18) years of age or older that they are subject to the provisions of this Law.

### **COMMUNITY KNOWLEDGE OF DRUG TRAFFICKING**

11.1 Community knowledge that a person(s), is trafficking in drugs is considered valid if:

- a) the knowledge is the subject of a written complaint by a member(s) and is supported by evidence obtained by the Police;
- b) is the subject of a written report by the Police;
- c) it is acquired through investigations by the Social Services, or any other authorized body of Council, and is the subject of a written report; or
- d) any combination of the above.

11.2 When a member, a resident in the Territory, or a person employed by Council, has or acquires knowledge that a person or group of persons are involved in illegal activities relating to drugs, this knowledge must be conveyed in writing to the Prosecutor or to the Police. If the knowledge is conveyed to the Police, they must then transmit it to the Prosecutor.

### **PROSECUTOR**

12.3 The Prosecutor shall prepare a report detailing the basis for community knowledge or trafficking in drugs from the Police before initiating the Individual Warning. A copy of this report shall be filed with the Mohawk Court if Banishment Proceedings are initiated.

12.4 If the Prosecutor is satisfied that a person(s) is trafficking in drugs, he or she shall advise the Akwesasne Justice Department which shall initiate the Individual Warning process. The Director of the Justice Department shall appoint a person to act as a contact with the members involved in the warning process.

## **THE INDIVIDUAL WARNING**

- 13.1 When a person(s) residing in the Territory, is/are known on the basis of community knowledge, and as confirmed by the Prosecutor's Report to have contravened section 9, the Justice Department shall select a trained group of members eighteen (18) years of age or older. The Justice Department shall ask the group to proceed to the home or place of business of the trafficker(s) to deliver verbally and in writing, a warning to the trafficker(s) to immediately cease all activities related to drugs. The group shall inform them that if the warning is not heeded, the person(s) will be liable to banishment procedures described in the Akwesasne Banishment Law.
- 13.2 Community members selected to give the warning shall conduct themselves respectfully and speak with good words and a good mind. They shall seek to convince the person receiving the warning to rehabilitate themselves. Whenever possible the warning shall be given to the family as well. The warning could include a reference that such activities are harming the community and its children.
- 13.3 The Police shall accompany the community Members while they are giving the warning, in order to ensure their safety and to keep the peace.
- 13.4 Once they have issued the warning, the select group of community Members shall report back to the Justice Department on how the warning was delivered, and the reaction of the recipient. The Justice Department shall prepare a report concerning the issuance of the warning.

## **OPPORTUNITY TO ANSWER**

- 14.1 The individual receiving the warning may answer the warning by providing the Prosecutor with a written response within 14 days of receipt of the individual warning.

## **COMMENCEMENT OF BANISHMENT PROCEEDINGS**

- 15.5 If the Justice Department, in consultation with the Police and the Prosecutor, is satisfied that the community knowledge has reasonable basis and the warning was not heeded in the fourteen (14) days following its delivery, Banishment Proceedings, pursuant to section 7.1 of the Akwesasne Banishment Law shall commence against the Trafficker(s).

## **PUBLICATION**

- 16.1 Once Banishment proceedings have been initiated pursuant to section 7 of the Akwesasne Banishment Law, notice shall be given to the community by publication in at least one newspaper of the issuance of the warning and the commencement of Banishment Proceedings.



## **TIME PERIOD**

- 17.1 If the Trafficker(s) has/have ceased their illegal activities after receiving their individual warning, but resume such activities thereafter, then that person shall automatically become subject to Banishment Proceedings.

## **CONVICTION AND BANISHMENT**

- 18.1 After this Law comes into force, any person, eighteen years of age and older, convicted in a Court of competent jurisdiction of trafficking, selling, trading, transporting, cultivating, manufacturing or possessing for the purpose of trafficking drugs within or outside the Territory, shall be immediately subject to the Banishment procedure described in the Akwesasne Banishment Law without the requirement of an individual warning. This section also applies to persons convicted of conspiracies in relation to drug offenses described.

## **CONVICTIONS**

- 19.1 A certified copy of a conviction for a drug offence signed by the Clerk of the Court, or other officer having custody of the records of the Court in which the conviction took place, shall be deemed conclusive proof of a conviction.

## **ADMINISTRATION**

- 20.1 The Akwesasne Justice Department shall be responsible for administration of this Law.
- 20.2 Nothing in this Law shall operate to prevent a person from being investigated, charged or convicted pursuant to any other validly enacted law.
- 20.3 Service of a document shall be in person or by registered mail. Proof of service may be filed with the Court before service becomes effective.
- 20.4 Upon enactment of this Law, Council shall, within 14 days, pass a resolution declaring the Law to be in force on the date of the resolution or such later date as specified.

## **AMENDMENTS**

- 21.1 Amendments to this law shall be initiated by:
- a) a motion passed by Council, setting out the proposed amendments; or
  - b) a petition presented to Council signed by at least 75 eligible voters from each District, setting out the proposed amendments.
- 21.2 Upon the amendment process being validly initiated in accordance with section 21.1, the Legislative Commission shall prepare a draft amended law indicating the amended provisions.

- 21.3 The draft amended law shall be presented by the Legislative Commission at a General Meeting by reading a summary of the proposed law explaining the amendments and making available a full text of the amended law to the community members.
- 21.4 At least seven (7) days prior to the General Meeting, Mohawk Council shall give notice to the community, through the local media, of the full text of the draft amended law and make copies available to community members.
- 21.5 After presentation at the General Meeting the Legislative Commission shall hold information meetings in each District to explain the amendments and receive comments and recommendations from community members.
- 21.6 Reasonable efforts shall be made through the local media or through the information meetings to explain the amendments in the Mohawk Language.
- 21.7 The Legislative Commission shall prepare a final draft amended law taking into consideration the information received at the information meetings and responses from community members to the draft amended law.
- 21.8 Council shall schedule a Special General Meeting for the purposes of considering the final draft amended law.
- 21.9 Notice shall be given to the community through the local media at least seven days prior to the Special General Meeting. The full text for the final draft will be included in the notice and copies made available to community members.
- 21.10 At the Special General Meeting, a vote by eligible voters present shall be taken on the final draft amended law. If a majority of eligible voters approve the final draft, the amendments shall be deemed valid and enacted.

This document has been formatted for public distribution. For a certified copy of the original version of the Akwesasne Law, contact the Kaiahnehronshera iehiontakwa – Akwesasne Law Registry Registrar located at the Akwesasne Justice Department