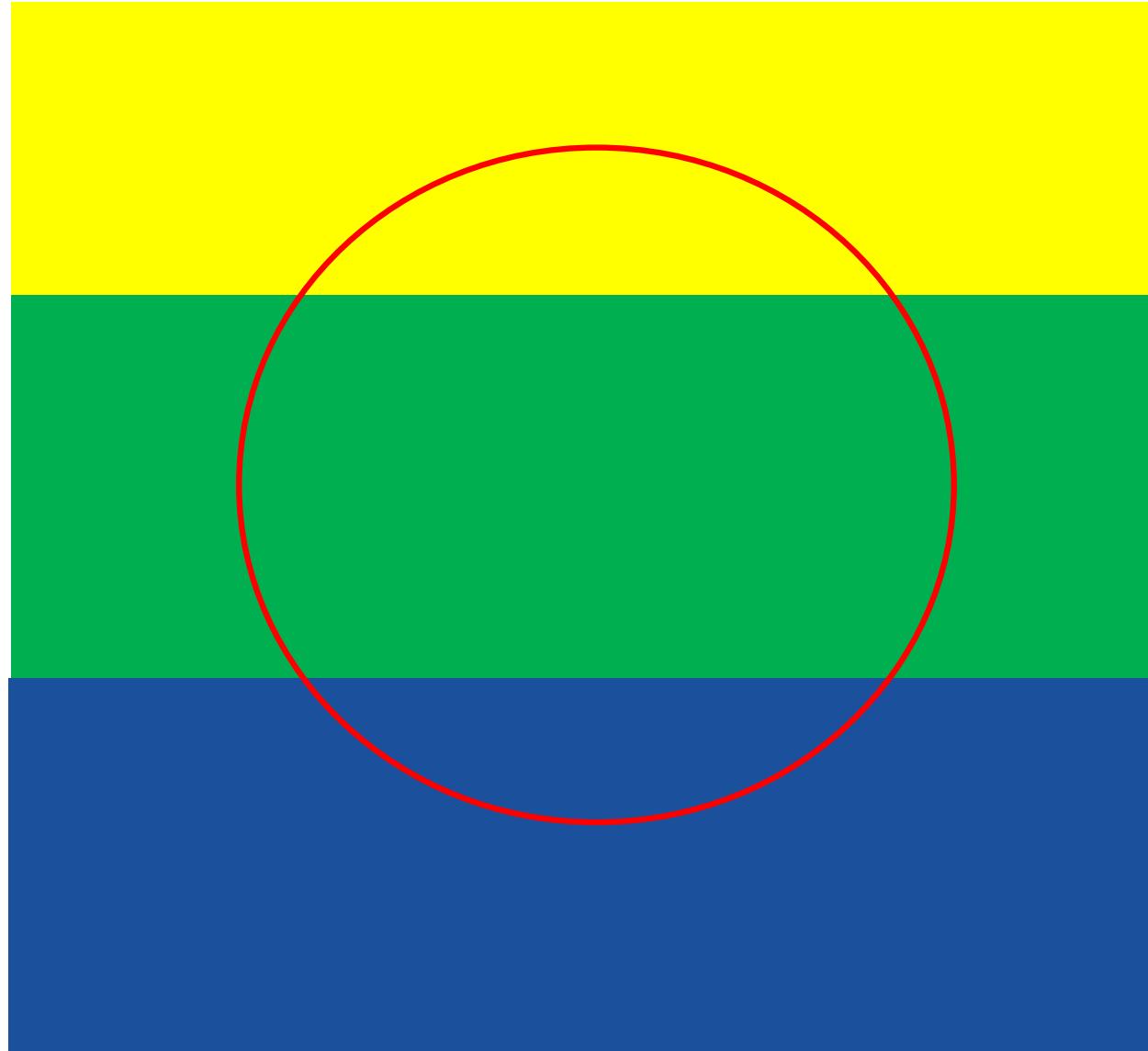


PEGUIS FIRST NATION

Law & Order Bylaw

Bylaw No. 2024-3

John W. Gailus
Stephen Wallington



Objectives

This Bylaw is a tool for Peguis to:

- 1) Address crime within Peguis;**
- 2) Get background checks to find out if people are dangerous;**
- 3) Prosecute crime(s); and**
- 4) Address trespassers in the community**



First Nations Safety Officer (FNSO)

Authorizes the FNSO, a policing and bylaw enforcement officer to work with the Province.

The FNSO or a police officer is authorized to remove anyone:

- 1) Trespassing generally;
- 2) Ordered to leave Peguis under a bylaw (e.g. trespass, residency bylaw);
- 3) Not complying with an order from Council or breaching a Band Housing tenancy agreement; or
- 4) Banished from Peguis due to participating in Prohibited Activities in their residence, excessively damaged Band Housing, or Prohibited Activities happening at their house



Prohibited Activities

Prohibited Activities include:

- a) Being intoxicated, but not from *alcohol*;
- b) Any illegal activities including any activity that is contrary to a Peguis Bylaw, or a law of Canada or Manitoba applicable on Peguis Lands;
- c) Producing, manufacturing, supplying, selling, transferring, or exchanging intoxicating substances (or drugs) if the intention is for their use as an intoxicant;
- d) Producing, possessing, using, consuming, selling, transferring, exchanging, or trafficking any controlled substance under the *Controlled Drugs and Substances Act*, or any substance that Council deems should be included under a Schedule to this Bylaw; and
- e) Prostitution, human trafficking or any similar activities for sexual purposes



Intoxication

Intoxication or *Intoxicated* means being under the influence of any intoxicant, including any substance controlled or prohibited by the *Controlled Drugs and Substances Act*, but excludes:

- a) Being under the influence of alcohol; and
- b) Any substance controlled or prohibited by the *Controlled Drugs and Substances Act* intended to be used solely for medical purposes upon prescription by a medical doctor in accordance with the *Controlled Drugs and Substances Act (Canada)* and regulations, the *Cannabis Act* and its regulations



Dangerous Persons

This Bylaw authorizes Council to investigate certain individuals and, if they are deemed dangerous from past criminal history or a lack of transparency, may designate them as a *Dangerous Person*.

Being designated a *Dangerous Person* is a term defined by Peguis Bylaws; it is not the same as a “dangerous offender” under the *Criminal Code*.



Dangerous Persons

If Council believes a person may pose a threat to the community and has:

- 1) Committed certain crimes under the *Criminal Code*;
- 2) Not responded to Council's request for a criminal record background check; or
- 3) Consistently engaged in *Prohibited Activities*

Then Council may request a criminal record background check to which the person has thirty (30) days to respond.

The person may then be labelled a *Dangerous Person*.



Dangerous Persons

Implications of being labelled a *Dangerous Person*:

- 1) Name to be posted publicly;**
- 2) Restricted from attending specified locations or events;**
- 3) Evicted from any residence on Peguis Lands or removed from the Housing List;**
- 4) Restricted from occupying or possessing land on Peguis Lands for a time; and**
- 5) Be considered a trespasser with possibility of banishment**



Dangerous Persons

If the *Dangerous Person* is a Member also:

- 1) Be terminated from their employment with Peguis or a Peguis-Controlled Entity on a *with cause* basis;
- 2) Be denied any assistance from Peguis (social assistance, economic or educational support, etc.);
- 3) Be denied or evicted from Peguis Housing and removed from Peguis Housing list;
- 4) Have their business contracts or procurement with Peguis or Peguis Controlled Entities rejected;
- 5) Be refused access to recreational or gaming facilities in Peguis



Dangerous Persons

Council will look at a broad range of circumstances that allow for a person's behaviour to change and not be indefinitely held responsible for their past mistakes when considering what conditions or restrictions to impose.

The person labelled a Dangerous Person will be given an opportunity to express their views and position to Council regarding whether they are a threat to the safety of the community.



Dangerous Persons

Council will also look at the circumstances of past offence(s) such as:

- 1) Whether the offence(s) occurred in Peguis and involved residents;
- 2) The Dangerous Person's age and any extenuating circumstances; and
- 3) The length of time that has elapsed between the commission of the offence(s) and what the Dangerous Person has done during that period of time:
 - Have they shown intention to be rehabilitated or tendencies to repeat their behaviour?
 - Has the Dangerous Person changed or is their behaviour repetitive?
 - Is it all in the past or are their actions a present threat?



Justice Committee & Restorative Justice

Violators of the Bylaw may plead guilty and choose a restorative justice approach by appearing before Peguis' Justice Committee.

By voluntarily electing to appear before the elders, the guilty person may be ordered to face additional penalties such as:

- 1) Attending professional counselling;**
- 2) Completing community service; or**
- 3) Other sentences the elders consider appropriate**



Private Prosecutions

RCMP often refuse to enforce First Nation Bylaws.

Private Prosecutions must be relied upon as both Ottawa and the Province have failed to implement appropriate statutory tools for police agencies to enforce and prosecute First Nations bylaws.

The Bylaw sets out procedural steps for bringing the type of prosecution under the *Criminal Code* that First Nations must often rely upon called a *Private Prosecution*.



Private Prosecution

K'omoks First Nation v Thordarson and Sorbie, 2018 BCPC 114

- Ryan Thordarson and Amelia Sorbie had not paid rent for a long time and K'omoks wanted them off their Band's land. After giving them a notice to vacate the property and the renters refusing, the Band considered them trespassers under their Land Code.
- K'omoks went to Court with a private prosecution under s. 508 of the *Criminal Code*. The Court looked at their information and, finding it satisfactory, allowed them to bring a private prosecution.



Do you have any questions?

John Gailus

john@cascadialegal.ca

250.419.8317

Stephen Wallington

stephen@cascadialegal.ca

250.419.8311

