

WAPEKEKA BY-LAW ON INTOXICANT ABUSE

The Wapekeka First Nations By-Law No. 91.1
Being A By-Law To Repeal And Replace By-Law No. 1
Enacted On The 22nd Day Of December 1985.

Being a By-Law respecting intoxication and the use of intoxicants on the Reserves of the Wapekeka First Nation.

WHEREAS, subsection 85.1(1) of the Indian Act, R.S.C. 1970, Chapter 1-6 (as amended), empowers the Council of the Wapekeka First Nation to make By-Laws respecting intoxication and use of intoxicants on the Reserves of the Wapekeka First Nation; and,

WHEREAS, pursuant to subsection 85.1 (2) of the Indian Act, the form and substance of the By-Law set out below were assented to by a majority of the electors of the Wapekeka First Nation who voted at a special meeting of the electorate on the 16th day of December, 1991, called by the Council of the Wapekeka First Nation for the purpose of considering the said By-Law; and,

WHEREAS, the Council of the Wapekeka First Nation considers necessary special measures for the protection of the citizens of the Reserves of the Wapekeka First Nation from the presence of intoxicants;

NOW THEREFORE, pursuant to section 85.1 of the Indian Act, the Council of the Wapekeka First Nation enacts as a By-Law thereof as follows:

1. In this By-Law

"intoxicant" means "intoxicant" as it is defined under subsection 2(1) of the Indian Act.

2. A person who sells, barter, supplies or manufactures an intoxicant in the Reserves of the Wapekeka First Nation is guilty of an offence and is liable on summary conviction to the penalty described in paragraph 85.1 (4) (a) of the Indian Act, namely, a fine of not more than one thousand dollars or imprisonment for a term not exceeding six months or both.

3. A person who is found

- (a) with intoxicants in his possession or
- (b) intoxicated

on the Reserves of Wapekeka First Nation, is guilty of an offence and is liable on summary conviction to the penalty described in paragraph 85.1 (4) (b) of the Indian Act, namely, a fine of not more than one hundred dollars or imprisonment for a term not exceeding three months or both.

4. The provisions of this By-Law do not apply where the intoxicant is possessed, used or intended to be used,

- (a) in the case of sickness or accident, or
- (b) for domestic or commercial purposes that do not involve human consumption, or
- (c) solely for a religious purpose or other purposes that does not involve producing a state of intoxication in any person.

5. (1) No offence is committed against subparagraph 3(a) of this By-Law if the person in possession is a tourist transporting the intoxicant in an unopened state across the Reserves to a destination beyond the Reserve boundaries.

(2) In the case of a tourist described in subsection (1) who must sojourn on the Reserves overnight or for a few days in order to avoid bad weather, in order to gather supplies or for any other valid purpose, he shall deliver the intoxicant in his possession as soon as is reasonably possible to a special constable, First Nation constable, any other authorized peace officer or any other person designated for this special purpose by Band Council Resolution.

(3) Where a special constable, a First Nation constable, an authorized peace officer or a person designated by Band Council Resolution takes delivery of an intoxicant in the circumstances described in subsection (2), he shall deposit, as soon as is reasonably possible, the intoxicant in a place of safekeeping, such as a lock-up or a First Nation administration building.

(4) A special constable, a First Nation constable, an authorized peace officer, or a person designated by Band Council Resolution who is in charge of the intoxicant deposited in accordance with subsection (3) shall return the intoxicant to the original possessor described in subsections (1) and (2) within twenty-four hours of his departure from the Reserves, it being the responsibility of the original possessor of the intoxicant to provide due notice of his imminent departure.

(5) In the case of a person described in subsection (2) who fails to deliver the intoxicant in his possession as soon as is reasonable possible to a special constable, First Nation constable, any other authorized peace officer or any other person designated by Band Council Resolution, the person in possession of the intoxicant is guilty of an offence under subparagraph 3(a) of this By-Law.

6. (1) Every person coming onto the Reserves of Wapekeka First Nation shall, at that time, if requested by a special constable, First Nation constable, any other authorized peace officer or any other person designated by Band Council Resolution, declare whether or not he has in his possession any intoxicant, whether on his person or among the luggage, bags, packages or other containers that he is bringing onto the Reserves.

(2) Following a declaration or a failure to declare under subsection (1), a special constable, First Nation constable, any other authorized peace officer or any other person designated by Band Council Resolution, who believes, on reasonable grounds, that there is any person contravening sections 2 or 3 of this By-Law may

(a) detain the luggage, bags, packages or other containers that person is bringing onto the Reserves for a period of time sufficient to apply for a search warrant under section 103 of the Indian Act and for a period of time sufficient to execute any warrant issued by a Justice of the Peace under section 103.

(3) The name of every person who fails to declare under subsection (1) shall be reported to the Council of the Wapekeka First Nation by a special constable, First Nation constable, any other authorized peace officer, or any other person designated by Band Council Resolution.

7. By-Law No. 1 enacted on the 22nd day of December 1985, and being a By-Law to prohibit Intoxicants on the Reserves, be and the same is hereby repealed.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Wapekeka First Nation this 16th day of December, 1991.

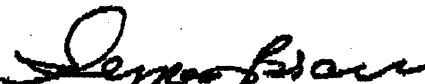
Voting in favour of the By-Law are the following members of the Council:



Chief - Norman Brown



Deputy Chief - Donald Brown



Councillor - Simon Brown



Councillor - David Brown

Being the majority of those members of the Council of the Wapekeka First Nation present at the aforesaid meeting of the Council.

The quorum of the Council is three.(3) members,

Number of members of the Council present at the meeting; 4.