

Little Grand Rapids First Nation  
By Law Number 1999-03

**BEING A BY-LAW RESPECTING THE PROHIBITION  
AGAINST THE INHALATION OF SOLVENT AND GASOLINE VAPOURS**

**WHEREAS** the Council of Little Grand Rapids First Nation deems it expedient to enact a by-law for the purpose of safeguarding its community on the reserve from the serious problems resulting from the unhealthy and destructive practice of inhaling solvents and gasoline for the sole purpose of producing euphoria, hallucinations and intoxication;

**AND WHEREAS** paragraph 81(1), (a), (c), (d), (q) and (r) of the Indian Act, R.S.C. 1985, c.1-5, empower the Council of a Band to make by-laws to provide for the health of residents, the observance of law and order, 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 the imposition of summary conviction of a fine or imprisonment for violation thereof;

**AND WHEREAS** the Council of Little Grand Rapids First Nation did enact By-law Number 180-4-2 on the 19th day of February, 1998, and wishes to repeal the said By-law Number 180-4-2 and replace it with this by-law;

**AND WHEREAS** the Council of Little Grand Rapids First Nation did enact By-law Number 1996-01 on the 24<sup>th</sup> day of April, 1996, and wishes to repeal the said By-law Number 1996-01.

**NOW THEREFORE** the Council of Little Grand Rapids First Nation enacts as a by-law thereof as follows:

*Short Title*

**Short Title**

1. This By-Law may be cited as the "Little Grand Rapids First Nation Solvent and Gasoline Abuse By Law."

*Interpretation*

**Definitions**

2. In this By-Law,

**"Chronic Solvent Abuser"** means a person who through the use of intoxicating matter,

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- (a) has developed a desire or need to continue to use an intoxicating matter, or
- (b) has developed a psychological or physical dependence upon the effect of a intoxicating matter;

**"Container"** means a bottle, vessel, receptacle, or plastic bag containing an intoxicating matter;

**"Constable"** includes every member of the Royal Canadian Mounted Police, any Little Grand Rapids First Nation Band Constable and any member of the Little Grand Rapids Night Watchman Patrol Program;

**"Intoxicated"** means being under the influence of an intoxicating matter or vapour to the extent that a person's physical and mental functioning is impaired;

**"Intoxicating matter"** includes plastic solvents, adhesive cement, cleaning agents, glue, dope, nail polish remover, lighter fluid, gasoline, paint or lacquer thinner, or any other substance which induces a state of impairment;

**"Intoxicating vapour"** means any vapour, fume or liquid that is emitted or produced from an intoxicating matter;

**"Little Grand Rapids First Nation"** means Little Grand Rapids Indian Band No 270;

**"Possession"** for the purposes of this By-law means,

- (a) a person has anything in possession when he has it in his personal possession or knowingly
  - (i) has it in the actual possession or custody of another person; or
  - (ii) has it in any place, whether or not that place belongs to or is occupied by him, for the use or benefit of himself or of another person; and
- (b) where one of two or more persons, with the knowledge and consent of the rest, has anything in his custody or possession, it shall be deemed to be in the custody and possession of each and all of them.

**PART I  
OFFENCES AND ENFORCEMENT**

*Particular Offences*

**Inhalation of Intoxicating Vapour- offence and punishment**

- 3.(1) No person, for the purpose of inducing euphoria, hallucinations or intoxication, shall inhale, administer or otherwise introduce into his respiratory system an intoxicating vapour.
- (2) No person, for the purpose of inducing euphoria, hallucinations, or intoxication, shall assist or cause another person to inhale, administer or otherwise introduce into his respiratory system an intoxicating vapour.
- (3) Every person who contravenes subsection (1) or (2) is guilty of an offence and is liable
  - (a) on summary conviction for a first offence, to a fine not exceeding \$1000.00 or to imprisonment for a term not exceeding 10 days or to both; or
  - (b) on summary conviction for a second offence, to a fine not exceeding \$400.00 or to imprisonment for a term not exceeding 20 days or to both; or
  - (c) on summary conviction for a subsequent offence, to a fine not exceeding \$1000.00 or to imprisonment for a term of thirty days or to both.

**Possession of Intoxicating Matter and Possession for Sale - offence and punishment**

- 4.(1) No person shall have in their possession any intoxicating matter for the purpose of inhaling, administering or otherwise introducing into his respiratory system the intoxicating vapours emitted or produced from the intoxicating matter.
- (2) No person shall have in their possession any intoxicating matter for the purpose of selling, giving, administering, transporting, sending, delivering or distributing the intoxicating matter to a person:
  - (a) who is or is believed to be of unsound mind, or is impaired by alcohol, drugs, or by reason of having inhaled intoxicating vapours, or
  - (b) who is or is believed to be using the intoxicating matter for the purpose of being intoxicated.
- (3) Every one who contravenes subsection (1) or (2) is guilty of an offence and is liable
  - (a) on summary conviction for a first offence, to a fine not exceeding \$2000.00 or

- to imprisonment for a term not exceeding 10 days or to both; or
- (b) on summary conviction for a second offence, to a fine not exceeding \$400.00 or to imprisonment for a term not exceeding 20 days or to both; or
  - (c) on summary conviction for a subsequent offence, to a fine not exceeding \$1000.00 or to imprisonment for a term of thirty days or to both.

### *Exceptions*

#### **Exceptions**

5. Sections 3 and 4 do not apply to any person who:
- (a) manufactures or sells an intoxicating matter for medical purposes;
  - (b) inhales, administers or otherwise introduces an intoxicating vapour into his respiratory system under the supervision of a physician, nurse or dentist; or
  - (c) is a physician, nurse or dentist or a person acting under the direction of a physician, nurse or dentist who assists or causes another to inhale, administer or otherwise introduce into his respiratory system an intoxicating vapour.
6. Sections 3 and 4 do not apply to any person who possesses or uses or intends to use an intoxicating matter solely for medicinal purposes, which shall be demonstrated by a Medical Doctor's certificate stating the medical need for an intoxicating matter.

## **PART II PROSECUTION**

### *Proving Exception*

#### **Setting out or Negating Exception not required - *burden of proving exception***

- 7.(1) No exception prescribed by law is required to be set out or negated, as the case may be, in an information or indictment for an offence under this By-law.

- (2) In any prosecution under this By-law the burden of proving that an exception prescribed by law operates in favor of the accused is on the accused, and the prosecutor is not required, except by way of rebuttal, to prove that the exception does not operate in favor of the accused, whether or not it is set out in the information or indictment.

### *Evidence*

#### **Inference as conclusive evidence**

8. Where a constable seizes a container under circumstances that give rise to a reasonable inference that the contents of the container is an intoxicating matter, then in the absence of evidence to the contrary the contents shall be conclusively deemed to be an intoxicating matter.

### **PART III SENTENCE FOR TREATMENT**

#### **Chronic Solvent Abusers - sentence after conviction**

- 9.(1) Where a person who has been convicted of an offence in respect of which the person was charged with under this By-law, the court shall, before passing sentence, consider the evidence arising out of the trial, including evidence of either the NAADAP worker or BFI worker of Little Grand Rapids First Nation and other such evidence as may be adduced during sentencing submissions.
- (2) Where the court is satisfied, on consideration of the evidence under subsection (1) that the convicted person is an chronic solvent abuser, the court shall, notwithstanding anything in subsections 3(3) and 4(3), sentence that person to attend a treatment facility in lieu of any other sentence that might be imposed for the offence of which that person was convicted.
10. Where a person is sentenced to attend a treatment facility, that person shall be confined for treatment in an institution approved and recommended by either the prosecutor or the NAADAP or BFI worker of Little Grand Rapids First Nation.

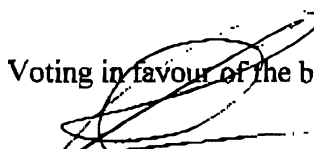
### **PART IV REPEAL OF OTHER BY-LAWS RELATING TO INTOXICANTS AND INTOXICATING MATTERS**

#### **Repeal**

- 11. By-law number 180-4-2 enacted on the 19 day of Feb, 1998 and being a By-law to regulate the activities of people sniffing gasoline, glue and other such substances be and the same is hereby repealed.
- 12. By-law number 1996-01 enacted on the 24<sup>th</sup> day of April, 1996, and being a By-law to regulate intoxicants be and the same is hereby repealed.

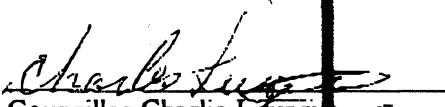
**THIS BY-LAW IS HEREBY** made at a duly convened meeting of the Council of the Little Grand Rapids First Nation this 03 day of MARCH, 1999

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

  
 \_\_\_\_\_  
 Chief Raymond Keeper

  
 \_\_\_\_\_  
 Councillor Eril Keeper

  
 \_\_\_\_\_  
 Councillor Nelson Keeper

  
 \_\_\_\_\_  
 Councillor Charlie Leveque

  
 \_\_\_\_\_  
 Councillor Martin Owen

  
 \_\_\_\_\_  
 Councillor Fred Moar

  
 \_\_\_\_\_  
 Councillor Russell Bushie

being the majority of those members of the Council of the Little Grand Rapids First Nation present at the aforesaid meeting of the Council.

The quorum of the Council is \_\_\_\_\_ members.  
 Numbers of members of the Council present at the meeting 7.

I, Raymond Kuper Chief/Councillor of the Band, do hereby certify that a true copy of the foregoing by-law was **mailed** to the Minister of Indian Affairs and Northern Development at the Winnipeg office of the department pursuant to subsection 82(1) of the Indian Act, this 3 day of March, 1999.

Raymond Kuper  
(Witness)

[Signature]  
(Chief/Councillor)