

FORT WARE INDIAN BAND
BY-LAW NUMBER 5, 1989
BEING AN INTOXICANTS BY-LAW

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WHEREAS the Fort Ware Indian Band considers it desirable to undertake measures for the protection of the community; and

WHEREAS intoxicants and intoxication have proved harmful to the culture, community life, peace and security of the Fort Ware Band of Indians; and

WHEREAS the Council of the Band are desirous of declaring in effect an absolute prohibition against the sale, barter, supply or manufacture of intoxicants on the reserve of the band; against any person being intoxicated on reserve; and against any person having intoxicants in his possession on the reserve; and wish to provide for no exceptions thereto; and

WHEREAS Section 85.1(1) of the Indian Act, R.S.C., 1985, cs. I-5, as amended, authorizes the council of a band to make by-laws (a) prohibiting the sale, barter, supply or manufacture of intoxicants on the reserve; (b) prohibiting any person from being intoxicated on the reserve; (c) prohibiting any person from having intoxicants in his possession on the reserve; and (d) providing for exceptions to any of the prohibitions established pursuant to paragraph (b) or (c); and

WHEREAS Section 85.1(4) of the Indian Act provides that every person who contravenes a by-law made under this section is guilty of an offence and is liable on summary conviction, in the case of a by-law made under paragraph (1)(a), to a fine of not more than one thousand dollars or to imprisonment for a term not exceeding six months or to both; and (b) in the case of a by-law made under paragraph (1)(b) or (c), to a fine of not more than one hundred dollars or to imprisonment for a term not exceeding three months or to both;

THEREFORE the Council of the Fort Ware Indian Band hereby declare and enact as follows:

The Fort Ware Indian Band is a Band of Indians as defined in s.2.(1) of the Indian Act.

The Council of the Band is the duly elected council of the Fort Ware Indian Band, as defined in s.2.(1) of the Indian Act.

The Fort Ware Reserve is a reserve as defined in s.2.(1) of the Indian Act.

1. For the purposes of this by-law;
 - (a) "Band" means the Fort Ware Band of Indians, an Indian band within the meaning of s.2.(1) of the Indian Act;
 - (b) "intoxicant" includes alcohol, alcoholic, spirituous, vinous, fermented malt or other intoxicating liquor or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption that are intoxicating, as defined in s.2.(1) of the Indian Act;
 - (c) "possession" means possession as defined in s.4.(3)(a), (b) of the Criminal Code of Canada, R.S.C. 1985, c.46, as amended;

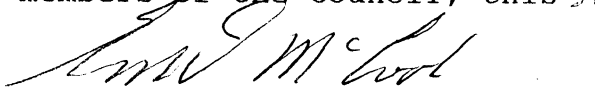
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- (d) "Reserve" means any tract of land reserved unto the use and enjoyment of the Fort Ware Band of Indians, and designated by the minister, as defined in s.2.(1) of the Indian Act;
- (e) where a word is defined, other parts of speech and gramatical forms of the same word have corresponding meanings;
- (f) words importing male persons include female persons;
- (g) words in the singular include the plural, and words in the plural include the singular.
2. Any person who sells, barters, supplies or manufactures intoxicants on the Reserve of the Band is guilty of an offence and is liable, on summary conviction, to a fine of not more than one thousand dollars or to imprisonment for a term not exceeding six months or to both, pursuant to s.85.1(1)(a), (4)(a) of the Indian Act.
3. Any person intoxicated on the Reserve of the Band is guilty of an offence and is liable, on summary conviction, to a fine of not more than one hundred dollars or to imprisonment for a term not exceeding three months, or to both, pursuant to s.85.1.(1)(b), (4)(b), of the Indian Act.
4. Any person having intoxicants in his possession on the Reserve of the Band is guilty of an offence and is liable, on summary conviction, to a fine of not more than one hundred dollars or to imprisonment for a term not exceeding three months or to both, pursuant to s.85.1(1)(c), (4)(b) of the Indian Act.
5. For the purposes of prosecutions under this act, summary conviction proceedings shall be conducted as prescribed in Part XXVII, ss.785, 786 of the, Criminal Code.

BE IT KNOWN that this by-law entitled "Intoxicants By-Law" is hereby passed as By-Law 5-1989 by the Council of the Fort Ware Band of Indians at a duly convened meeting of the said Council held on May 4th, 1989 and is subject to assent of the majority of the band who vote at a special meeting of the band;

THAT this by-law, was assented to by a majority of the electors of the Band who voted at a special meeting of the Band held on, May 4th, 1989, and called by the Council of the Band for the purpose of considering this by-law, pursuant to s.85.1(2) of the Indian Act.

AND THAT this by-law is enacted and consented to by the following members of the Council, this 5th day of May, 1989;


CHIEF


WITNESS


COUNCILLOR


WITNESS


COUNCILLOR


WITNESS


COUNCILLOR


WITNESS

AND BEING the majority of those members of the Council of the Fort Ware Band of Indians present at the above mentioned meeting of the Council,

AND BEING a quorum of this Band Council.

On the coming into force of this by-law, By-Law No. 4-1987
"Being an Intoxicant By-Law" is repealed.