

Tataskweyak Cree Nation

Intoxicant Bylaw 2017-01

WHEREAS the abuse of Intoxicants represents a major threat to the communal well-being of the Tataskweyak Cree Nation and to the lives of its Members, and has been demonstrated to be a major contributor to ill-health, social disorder and of breaches of the peace within the community;

AND WHEREAS the Council of the Tataskweyak Cree Nation wishes to take steps to curtail the abuse of Intoxicants in the community;

AND WHEREAS it is necessary for the Council of the Tataskweyak Cree Nation to take special measures which are sensitive to the community needs of the Tataskweyak Cree Nation, its location, and its unique history, traditions, and culture;

AND WHEREAS subsections 81(1), (a), (c), (d), (q) and (r) of the *Indian Act*, R.S.C. 1985, c. I-5, empower the Council of a Tataskweyak Cree Nation to make bylaws 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 on summary conviction of a fine or imprisonment for violation thereof;

AND WHEREAS subsection 85.1(1) of the *Indian Act* authorizes the council of and to make bylaws:

- (a) Prohibiting the sale, barter, supply or manufacture of intoxicants on the reserve of a band;
- (b) Prohibiting any person from being intoxicated on the reserve;
- (c) Prohibiting any person from having intoxicants in his/her possession on the reserve Lands; and
- (d) Providing for exceptions to any of the prohibitions established pursuant to paragraph (b) or (c).

AND WHEREAS subsection 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 bylaw made under paragraph 85.1(1)(a), to a fine of not more than \$1,000 or to imprisonment for a term not exceeding six (6) months or to both; and in the case of a bylaw made under paragraph 85.1(1)(b) or paragraph 85.1(1)(c), to a fine of not more than \$100 or to imprisonment for a term not exceeding three (3) months, or to both;

AND WHEREAS the Council of the Tataskweyak Cree Nation did enact the Intoxicants Bylaw on October 28, 1987 (the "1987 Intoxicants Bylaw"), and wishes to repeal the said 1987 Intoxicants Bylaw, and replace it with this bylaw.

AND WHEREAS a majority of the electors of Tataskweyak Cree Nation who attended a

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special meeting of the Tataskweyak Cree Nation on May 8, 2017 called by the Tataskweyak Cree Nation Council for the purpose of considering the contents of this bylaw, assented to the contents of this bylaw;

NOW THEREFORE the Chief and Council of the Tataskweyak Cree Nation enacts the following bylaw.

1. SHORT TITLE

- 1.1. This bylaw may be cited as the "*Tataskweyak Cree Nation Intoxicant Bylaw*" (the "Bylaw").

2. DEFINITIONS

- 2.1. Unless otherwise stated, the following terms shall, for the purposes of this Bylaw, have the following respective meanings:

"Enforcement Officer" means any person or persons appointed by Chief and Council to administer and enforce the provisions of this Bylaw, and includes a First Nation Safety Officer, a member of the RCMP, police officer, police constable, peace officer or other person with responsibility of carrying out the provisions of this Bylaw for the purposes of maintaining law and order.

"Intoxicant", or **"Intoxicants"** means any substance, liquid or the vapours thereof which can be used to produce a state of intoxication, and includes, without limiting the foregoing:

- a) alcohol, alcoholic, spirituous, vinous, fermented malt, or other intoxicating liquor or combination or liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks and drinkable liquids and all preparations or mixtures capable of human consumption that are intoxicating;
- b) homemade mixtures capable of producing a state of intoxication, and/or the yeast utilized to make such mixtures;
- c) marijuana, hashish, or other cannabis preparations or derivatives; and
- d) a controlled substance as defined in the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended or replaced from time to time.

"Intoxication" means being under the influence of, or in a state of impairment resulting from the use of an Intoxicant.

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"First Nation Safety Officer" means a person appointed by the Band who is authorized to enforce TCN laws and bylaws pursuant to the Operating Agreement for First Nation Safety Officer Program for 2016-2017 and 2017-2018 (the "Operating Agreement").

"Person" means any person who is present on a Reserve, and includes members of Tataskweyak Cree Nation and persons who are not members of Tataskweyak Cree Nation.

"Possession" means "possession" within the meaning of subsection 4(3) of *the Criminal Code of Canada*, R.S.C. 1985, c C-46.

"RCMP" means the Royal Canadian Mounted Police.

"Traffic" means to:

- a) manufacture an Intoxicant; or
- b) to give, buy, sell, exchange or barter or trade an Intoxicant; or
- c) to offer to give, sell, manufacture, barter or trade an Intoxicant.

"TCN" means the Tataskweyak Cree Nation.

"Reserve" means all those lands defined as a "reserve" within the meaning of the *Indian Act*, and set aside for the use and benefit of the Tataskweyak Cree Nation, including Split Lake 171, 171A, and 171B and any special reserves (see Schedule "A") and includes provincial access road 632 into Split Lake.

"Residence" means any building which is situated on Reserve and is in use as a residence of any person.

3. PROHIBITIONS

- 3.1. No Person shall be Intoxicated within the boundaries of a Reserve.
- 3.2. No Person shall be in Possession of an Intoxicant within the boundaries of a Reserve.
- 3.3. No Person shall Traffic or purchase an Intoxicant within the boundaries of a Reserve.

4. OFFENCES AND PENALTIES

- 4.1. Any person who **is Intoxicated** or in **possession of an Intoxicant** within the boundaries of a Reserve is guilty of an offence and is liable on summary conviction to a fine of not more than \$100.00 or imprisonment for a period not

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exceeding three (3) months, or both.

4.2. Any person who,

- a) manufactures an Intoxicant, or
- b) Traffics in an Intoxicant, or
- c) supplies an Intoxicant to a minor, or
- d) is in possession of an Intoxicant for the purposes of Trafficking

within the boundaries of a Reserve is guilty of an offence and is liable on summary conviction to a fine of not more than \$1000.00 or imprisonment for a period not exceeding six (6) months, or both.

4.3. No offence is committed against this Bylaw where the Intoxicant is used or intended to be used:

- a) for lawful medicinal purposes in cases of sickness or accident;
- b) for personal, domestic or commercial purposes that do not involve human consumption or involve producing a state of intoxication; or
- c) for traditional, sacred or other similar purposes which do not involve producing a state of intoxication.

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5. ENFORCEMENT

5.1. This Bylaw is enforceable by any Enforcement Officer.

6. SEARCH AND SEIZURE POWERS

6.1. Where an Enforcement Officer has reasonable and probable grounds to believe that a person on a Reserve may be committing an offence against this or any other TCN bylaw or law, that Enforcement Officer may conduct a search of the person and any items immediately in their possession.

6.2. Every person entering or exiting the Reserve via automobile, boat or other vehicle or vessel shall, at that time, if requested by the Enforcement Officer, make a declaration as to whether they have in their possession any Intoxicant, whether on their person or among the luggage, bags, packages or other containers being brought to or removed from the Reserve.

6.3. Following a declaration under section 6.2, or a failure to declare under section 6.2, if an Enforcement Officer believes, on reasonable and probable grounds, that a person is contravening sections 3.1 or 3.2 of this Bylaw, that Enforcement Officer may:

- a) Detain that person for a period of time sufficient to conduct a search for any Intoxicant; and
- b) Detain the luggage, bags, packages or other containers being brought to or removed from the Reserve for a period of time sufficient to conduct a search for any Intoxicant.

6.4. The name of a person who is found to have an Intoxicant on their person after a search is conducted pursuant to this Bylaw shall be reported to the Chief and Council.

6.5. An Enforcement Officer may, without warrant, conduct a reasonable search of any Residence or building situated within the Reserve, including Tataskweyak Cree Nation band offices, where:

- a) That Enforcement Officer has reasonable grounds to believe that an offence under this Bylaw has or will be, committed; and
- b) That Enforcement Officer has prior approval from Chief and Council to conduct the search.

6.6. Whenever an Enforcement Officer believes on reasonable grounds that an offence pursuant to this Bylaw has been committed, they may seize all goods

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and chattels by means of or in relation to which he or she believes on reasonable grounds the offence was committed.

6.7. All goods and chattels seized pursuant to this Bylaw may be detained subject to the following restrictions:

- a) In the case of an Intoxicant in liquid form, the good or chattel shall be the bottle or container holding the Intoxicant, and the Intoxicant itself shall be documented and dumped or otherwise disposed of in a safe manner;
- b) In the case of an Intoxicant not in liquid form, the Intoxicant shall be documented and handed to a local RCMP at the earliest possible time, and
- c) Such detention shall be for a period of no more than three (3) months following the day of seizure, unless proceedings are undertaken under the *Controlled Drugs and Substances Act* in respect of the offence, in which case the goods and chattels may be further detained until the proceedings are finally concluded.

6.8. An Enforcement Officer, when asked for the return of goods or chattels seized or detained, must return all goods and chattels that are not Intoxicants and have not been identified as a good suspected to relate to an offence under this Bylaw.

7. REPEAL

7.1. The Intoxicant Bylaw, passed the 28th day of October 1987, being a Bylaw to prohibit Intoxicants on the Reserve, is hereby repealed.

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8. COMING INTO FORCE

8.1. This Bylaw comes into force after it is executed by a quorum of Council and on the date that it is first published in the First Nations Gazette.

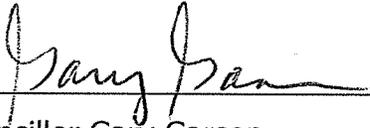
BE IT KNOWN that this Bylaw entitled *Tataskweyak Cree Nation Intoxicant Bylaw 2017-01* is hereby enacted by a quorum of Council at a duly convened Council meeting of the Tataskweyak Cree Nation held on May 8, 2017.



Chief Doreen Spence

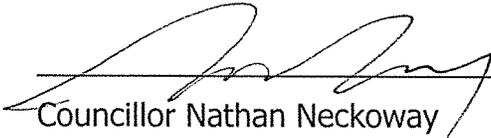


Councillor Sarah Cole



Councillor Gary Garson

Councillor Robert Garson



Councillor Nathan Neckoway



Councillor Leroy Spence



Councillor Robert Spence

Quorum of Council is four (4).

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Schedule "A"

Reserves/Settlements/Villages

No.	Name	Location	Hectares
06461	<u>SPLIT LAKE 171</u>	104 KN NE/NE OF/DE THOMPSON	15928.40
06462	<u>SPLIT LAKE 171A</u>	TWP 83, RGES 8,9&10, TWP 84 RGES 8&9, EPM	2990.70
06463	<u>SPLIT LAKE 171B</u>	TWP 82, RGE 9, EPM	135.60