

**CREE NATION OF CHISASIBI  
BY-LAW NO. 2017-003**

**regulating alcoholic beverages, curfew and certain nuisances**

**WHEREAS** the Cree Nation of Chisasibi enacted By-Law No. 2008-007 on September 13, 2008 and By-Law No. 2015-001 on January 12, 2015;

**WHEREAS** it is expedient and appropriate to update and replace these by-laws in order to better control nuisances and to promote public order;

**NOW THEREFORE:**

**PURSUANT** to its inherent sovereign authority and sections 8 and 45(1)(d) and (g) of the *Cree-Naskapi (of Quebec) Act*, S.C. 1984, c. 18, the Cree Nation of Chisasibi, acting through its Council at a meeting of the Council held in Chisasibi on the 11<sup>th</sup> day of July 2017, hereby enacts the present by-law regulating alcoholic beverages and certain nuisances.

**SHORT TITLE**

1. This By-Law may be cited as the Nuisance By-law.

**APPLICATION**

2. This By-Law applies to the Category IA land of the Cree Nation of Chisasibi, to the Category III land situated within the perimeter of such Category IA lands and to all persons situated thereon.

**INTERPRETATION**

3. In this by-law, the words and expressions shall have the same meaning as in the *Cree-Naskapi (of Quebec) Act*, except that:

"Act" means the *Cree-Naskapi (of Quebec) Act*, S.C. 1984 c.18;

"alcoholic beverage" means any beverage which has alcohol as a component including one or more of the following 5 varieties of beverages, namely and without limiting the generality of the foregoing: alcohol, spirits, wine, cider and beer;

"child" is any person under 16 years of age;

"Chisasibi" means the Cree Nation of Chisasibi;

"guardian" is the parent or legal guardian of a child, or the person over 18 years of age authorized by the parent or legal guardian and in whose care the child has been entrusted;

"loitering" means hanging about, sleeping or lying down, standing idly about, stopping, lingering, proceeding slowly with frequent pauses, remaining or delaying, without any lawful purpose;

"minor" is a person under 18 years of age on the date of the commission of an offence;

"nuisance" is any activity or conduct that causes an unsafe environment, disrupts public order, affects the well-being of persons or the enjoyment of private or public spaces, and includes:

- (a) impeding, incommoding or annoying any person;

- (b) fighting, shouting, screaming, yelling, singing or making or causing unreasonable noise;
- (c) using insulting or offensive language, gestures or displays;
- (d) molesting another person;
- (e) begging or wandering in any street, road or public place;
- (f) defacing, destroying, damaging or otherwise vandalizing property, or attempting to do so;
- (g) urinating in a public place, or spitting on the floor in any public building;
- (h) ringing or knocking on doors, windows or any part of a residence, without having reasonable excuse for doing so; or
- (i) interfering in any manner with the orderly conduct of commercial, administrative, educational, recreational, cultural, religious or ceremonial activities;

*"occupant"* includes:

- (a) any person who resides in or has apparent or actual control or possession of any residence or public place;
- (b) the owner of any residence or public place;

*"peace officer"* means any member of the Eeyou-Eenou Police Force;

*"person"* is a natural person, a corporation, or a partnership;

*"possession"* means to:

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

*"public place"* means any place, except a residence to which the public has access, as of right or by express or implied invitation, or any place open to public view, including in or around any vehicle or outside any residence;

*"residence"* means the interior portion of a permanent or temporary building or shelter that is kept or occupied, including:

- (a) any enclosed portion or attachment, and
- (b) any structure that is designed to be mobile and to be kept or occupied on a permanent or temporary basis and being used as such, but excluding any land or structure around which the building or shelter is situate, which is not enclosed, such as but not limited to decks, balconies, porches or steps;

*"sacramental wine"* means communion wine or alter wine, or any wine used, or set apart for use, during an official church ceremony;

*"sale and exchange"* means to:

- (a) solicit or receive an order for alcoholic beverages;
- (b) keep or expose alcoholic beverages for sale;
- (c) sell, administer, give, transfer, transport, send or deliver;
- (d) procure for or allow to be procured by another person, for any consideration actual or future direct or indirect; and

## **PROHIBITION OF THE SALE AND EXCHANGE OF ALCOHOLIC BEVERAGES**

4. Notwithstanding any other provision of this by-law, no person may sell or exchange alcoholic beverages anywhere within the territory identified at section 2.

## **POSSESSION OR CONSUMPTION OF ALCOHOL**

5.(1) No person may possess alcoholic beverages in a public place.

5.(2) No person may consume alcoholic beverages in a public place.

5.(3) No person shall be in a state of intoxication in a public place.

## **EXCEPTIONS**

6.(1) The provisions of this by-law relating to the sale, exchange, possession or consumption of alcoholic beverages shall not apply where the alcoholic beverages are used or intended to be medically used in a case of sickness or accident or where sacramental wine is consumed or administered for sacramental or religious purposes in a church or recognized place of worship.

In any prosecution under this by-law, the burden of proof that alcoholic beverages were used or were intended to be used in a case of sickness or accident rests upon the person alleging same.

6.(2) This by-law shall not prohibit the sale, exchange or possession of a product which contains alcohol but of which the principal use is as a cosmetic product, a food product normally destined for human consumption, or a pharmaceutical or medicinal preparation.

The burden of proof that alcoholic beverages are principally to be used for such purposes rests upon the person alleging same.

## **SEIZURE AND DESTRUCTION OF ALCOHOLIC BEVERAGES**

7.(1) Every peace officer who has reasonable cause to believe that alcoholic beverages are being or have been consumed in a vehicle may require the vehicle to stop and require the driver or the owner to allow him to inspect the alcoholic beverages transported. The driver or owner must comply without delay.

The peace officer may, upon stopping the vehicle, seize any alcoholic beverages possessed or transported in contravention of this by-law.

7.(2) A peace officer who believes on reasonable grounds that an offence is being or has been committed under any of the provisions of this by-law and that evidence of the offence will likely be found on a person, in a vehicle or in any place other than a residence, may, if the conditions for obtaining a warrant exist but, because of exigent circumstance it is impracticable to obtain a warrant, search the person, vehicle or place and seize any thing used in the commission of that offence or related thereto.

7.(3) All things thus seized may be detained for a period of 6 months following the day of seizure unless during that period proceedings are undertaken pursuant to this by-law in respect to that offence, in which case the things seized may be further detained until such proceedings are finally concluded.

7.(4) Any alcoholic beverages seized pursuant to section 7.(2) may be destroyed, provided that evidence is first documented and/or preserved as necessary to undertake and conclude proceedings under this by-law.

7.(5) The peace officer must make an immediate inventory of all seized things and must inform the individual from whom the things are seized that these may be retrieved.

The seizing peace officer must request that the person from whom the things are seized confirm in writing the accuracy of the inventory listed by the peace officer.

7.(6) If a person is convicted of an offence under this by-law, the court or judge issuing the conviction may order the things used in or related to the commission of the offence, in addition to any penalty imposed, be forfeited to the CNC and may be disposed of as such court or judge directs.

### **LOITERING**

8.(1) No person shall loiter in or about any public place.

8.(2) No person shall block, interfere with or otherwise impede the passage of other persons or vehicles.

### **CERTAIN NUISANCES**

9.(1) No person shall cause a nuisance in any public place.

9.(2) No person shall cause a nuisance inside a residence.

9.(3) No occupant shall permit or suffer any conduct or activity in or about a residence that might reasonably cause a nuisance for persons outside that residence or in an adjacent residence.

### **ORDERS OF PEACE OFFICERS**

10.(1) A peace officer may order any person who is loitering or causing a nuisance, or an occupant of a residence where a nuisance is being caused, to stop or put a stop to such nuisance.

No person may refuse or fail to comply with an order of a peace officer to stop loitering or causing a nuisance or to put a stop to such nuisance.

10.(2) No person may interfere with, obstruct or insult a peace officer acting under this by-law or under any other by-law of Chisasibi.

### **CURFEW**

11.(1) No child may be in a public place during curfew unless accompanied by an adult.

11.(2) For the purposes of this provision, curfew is:

- (a) between 9:00 p.m. and 6:00 a.m. during the school year; and

- (b) between 10:00 p.m. and 6:00 a.m. during the summer holidays when school is out.

11.(3) Notwithstanding section 11.(1), a child may be in a public place during curfew if:

- (a) the child is travelling directly to or from a place of employment, whether volunteer or remunerated;
- (b) the child is working at a place of employment that requires the child to be in a public place during curfew;
- (c) an emergency requires the child to be in a public place during curfew.

11.(4) No guardian may knowingly permit a child to be in a public place during curfew except as provided herein.

**IMMUNITY**

12. No peace officer, nor any person acting under the instructions of a peace officer, shall incur any civil or penal liability by reason of any act performed in the exercise of the powers of enforcement and seizure under this by-law.

**OFFENCES AND PENALTIES**

13. Every person who contravenes this by-law is guilty of an offence and is liable on summary conviction to a fine not exceeding \$2,000.00 or to imprisonment for a term not exceeding 6 months, or both.

**REPEAL OF EXISTING BY-LAWS**

14. By-law No. 2008-007 respecting prohibition against alcohol, and By-law 2015-001 as amended by By-law 2015-005 being a by-law to prevent nuisances are hereby repealed and replaced by this by-law, effective the date of its coming into force.

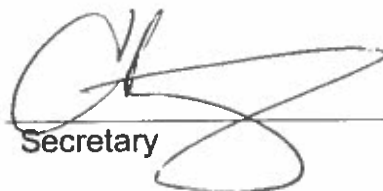
**COMING INTO FORCE**

15. This by-law shall come into force on the date of its posting.

SIGNED at Chisasibi, Quebec this 11<sup>th</sup> day of July 2017.



Chairman



Secretary