



SANDY BAY OJIBWAY FIRST NATION
Box 109
Marius, Manitoba R0H 0T0

File Reference Number: 20-01-82
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BAND COUNCIL RESOLUTION CHRONOLOGICAL NUMBER: 20-01-79	CASH FREE BALANCE
THE COUNCIL OF THE SANDY BAY OJIBWAY FIRST NATION	CAPITAL ACCOUNT: \$
DATE OF DULY CONVENED MEETING: D 26 / M 11/ Y 2020	REVENUE ACCOUNT: \$

DO HEREBY RESOLVE:

WHEREAS: Chief and Council are the lawful government of the Sandy Bay Ojibway First Nation ("SBOFN");

AND WHEREAS: Chief and Council are obligated to take actions as necessary to further the best interest of the members of SBOFN;

AND WHEREAS: The Chief and Council of SBOFN is empowered to make such By-Laws, laws and any matter ancillary thereto pursuant to the sovereign authority which flows from the inherent and inalienable rights of self-governance of SBOFN and, without recognizing that any provincial or federal legislation has any paramountcy over the sovereign and inherent rights of SBOFN, Chief and Council of SBOFN are also empowered to issue By-Laws pursuant to paragraphs 81(1)(a), (b), (c), (h), (l), (m), (n), (p), (p.1), (q), and (r) of the *Indian Act*, R.S.C. 1985, c. 1-5;

AND WHEREAS: It is deemed to be expedient and necessary, for the safety, security, and best interests of the inhabitants of the SBOFN reserve, to provide for the power for Chief and Council to declare and implement emergency measures for the SBOFN community;

NOW THEREFORE the Council of SBOFN hereby makes the following By-Law:

1. SHORT TITLE

1.1 This By-Law may be cited as the "Sandy Bay Ojibway First Nation Emergency Measures By-Law"

2. INTERPRETATION

1.1 In this By-Law,

- (a) **"Band Member"**- means any treaty Indian registered as a member of SBOFN in accordance with the Registrar of Indian status and membership which is prescribed by Treaty and maintained by the Crown as represented by the Government of Canada and/or as may be established and maintained by the First Nation from time to time;
- (b) **"Band Council Resolution"** – means a resolution in writing of a Council, passed by the majority of the Councillors present at a meeting duly convened at which a quorum is present;
- (c) **"Council"**- means the Chief and Council of the First Nation;
- (d) **"Effective Date"** means December 7, 2020;
- (e) **"Emergency"** means a present or imminent situation or condition that requires prompt action to prevent or limit loss of life, harm or damage to the safety, health, or welfare of community members, or damage to property or the environment;
- (f) **"First Nation"**- means the Sandy Bay Ojibway First Nation, a First Nation who is party to Treaty No. 1 and a Band as defined in the *Indian Act*;
- (g) **"Officer"** means any police officer, Community Safety Officer, police constable, special constable or other person charged with the duty to preserve and maintain the public peace, and any person appointed or contracted by the Council for the purpose of maintaining law and order on the reserve;
- (h) **"Reserve"** means Sandy Bay Ojibway First Nation reserve, and any land held for the use and benefit of the First Nation pursuant to section 36.1 of the *Indian Act*, and any future reserve set aside by Her Majesty for the use and benefit of the First Nation;



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3. APPLICATION

3.1 This By-law applies to all of the Sandy Bay Ojibway First Nation Reserve.

4. EMERGENCY RESPONSE

- 4.1 When an Emergency exists or is imminent, the Council may declare a state of emergency;
- 4.2 A declaration made under section 4.1 must be made through Band Council Resolution ("BCR") and must describe the Emergency that is the subject of the declaration, whether the Emergency applies to all or part of the First Nation and provide a duration for the declaration, which may not exceed 30 days in length;
- 4.3 Once a state of emergency has been declared under section 4.1, Council must take immediate steps to ensure that notice of the declaration is provided to the Band Members through postings and notifications through such means as necessary to reach the greatest number of Band Members;
- 4.4 A declaration under section 4.1 may not initially exceed 30 days but may be reviewed within 7 days prior to or upon the expiry of the initial 30-day period. In reviewing the declaration, Council shall consult with any experts or professionals about the state of the emergency affecting SBOFN. Council shall then make a determination on whether to extend, amend, or allow the declaration to expire. Subsequent extensions may not exceed further periods of 30 days.
- 4.5 Council may terminate a declaration under section 4.1 at any point, if in the opinion of Council, the emergency no longer exists, and shall communicate this termination to the Band Members.
- 4.6 The Council reserve the right to revisit this issue and amend the By-Law at a regularly convened Council meeting of the First Nation.

5. BAND COUNCIL RESOLUTION

- 5.1 Pursuant to this By-Law and subject to the limitations imposed by law, Council may, by Band Council Resolution, issue an order doing any one or more of the following:
- (a) cause emergency plans to be implemented;
 - (b) the utilization of any real or personal property necessary to prevent, combat, or alleviate the effects of any Emergency;
 - (c) cause the evacuation of persons and personal property and provide for the adequate protection and care thereof;
 - (d) Authorize or require any qualified person to render aid of such type as that person is qualified to provide;
 - (e) control, permit, or prohibit travel to or from any area or any road, street or highway within the Reserve on terms and conditions deemed appropriate by Council in the circumstances of the Emergency;
 - (f) control or prevent the movement of people from any area that may have a contaminating disease within the Reserve;
 - (g) provide for the imposition of a curfew on the Reserve;
 - (h) cause the demolition or removal of any trees, structures, or crops in order to prevent, combat, or alleviate the effects of an Emergency;
 - (i) authorize the procurement and distribution of essential resources and the provision of essential services;



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- (j) regulate the distribution and availability of essential goods, services, and resources;
- (k) expend such sums as are necessary to pay expenses caused by the Emergency;
- (l) Authorize the entry into any building, or upon any land, without warrant;
- (m) any other such action as is deemed necessary by Council to respond to the circumstances of the Emergency.

5.2 Council shall make such exemptions as are necessary in the circumstances when issuing orders under section 5.1.

6. ENFORCEMENT

6.1 Enforcement of this By-Law lies within the sole discretion of Council and may be carried out by an Officer.

7. LIABILITY

7.1 No action lies against Council, or a Member or person acting under Council's direction or authorization for anything done or omitted to be done in good faith while carrying out a power or duty under this By-Law or under any BCR passed pursuant to this By-Law.

8. PENALTY

8.1 A person who commits an offence under this by-law is liable on summary conviction to a fine not exceeding one (1) thousand dollars or to imprisonment for a term not exceeding thirty (30) days or to both.

8.2 A person who fails or refuses to comply with an order pursuant to a BCR and made under section 5, or who resists or interferes with any person in the carrying out of a power or duty under this By-Law is guilty of an offence and liable on summary conviction to a fine not exceeding one (1) thousand dollars or to imprisonment for a term not exceeding thirty (30) days or to both.

9. COMING INTO FORCE

9.1 This By-Law shall come into force on the Effective Date.

10. NON DEROGATION

10.1 Nothing in this By-Law shall be construed so as to abrogate or derogate from the application of section 35(1) of the Constitution Act, 1982 to any aboriginal, treaty, or self-governance right of the Sandy Bay Ojibway First Nation or any member of the Sandy Bay Ojibway First Nation.

10.2 Nothing in this By-Law shall be constructed so as to abrogate or derogate from the traditional law making structures of the Sandy Bay Ojibway First Nation, including but not limited to the powers and authorities of the traditional Sandy Bay Ojibway First Nation law makers or the Sandy Bay Ojibway First Nation Council pursuant to the right to self governance.

11. LAPSE

11.1 This By-Law shall cease to be of any force or affect upon being superseded by a Sandy Bay Ojibway First Nation Law addressing the Emergency Management powers of the Sandy Bay Ojibway Council enacted pursuant to the right to self governance.



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(continued)

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Band this 7th day of December 20 20

WHEREAS:

QUORUM: THREE (3)

Chief Trevor Prince

Council Michael Dumas

Council Randal B. Roulette

Council Trevor Prince

Council Jason Starr

FOR DEPARTMENTAL USE ONLY					
EXPENDITURE	AUTHORITY (INDIAN ACT)	SOURCE OF FUNDS <input type="checkbox"/> CAPITAL REVENUE	EXPENDITURE	AUTHORITY OF FUNDS (INDIAN ACT)	SOURCE OF FUNDS <input type="checkbox"/> CAPITAL REVENUE
RECOMMENDING OFFICER SIGNATURE: _____ DATE: _____			RECOMMENDING OFFICER SIGNATURE: _____ DATE: _____		
RECOMMENDING OFFICER SIGNATURE: _____ DATE: _____			RECOMMENDING OFFICER SIGNATURE: _____ DATE: _____		