

Resolution # 20-200

The Council of the Tobique Indian Band drawing upon its powers of self-government and its powers to make by-laws pursuant to paragraph 81(1)(c), (d), (P), (P.1), (q), and (r) of the *Indian Act*, R.S.C., 1985 c.1-5; hereby enacts the following by-law:

1. TITLE

- 1.1 This by-law may be cited as the “Tobique Indian Band Sexual Violence and Dangerous Persons By-Law”.

2. INTERPRETATION

- 2.1 In this by-law;

“Band Council Resolution” means a resolution in writing of a Council, passed by a majority of Councilors present at a duly convened meeting of Council;

“Council” means the elected Chief and Council of the Tobique Indian Band;

“dangerous person” means any person who has been designated as a “dangerous person” pursuant to this by-law;

“sexual violence” means any act designated as a sexual offense under the Criminal Code of Canada;

“officer” means any peace officer or other person charged with the duty to preserve and maintain the public peace and, includes any person appointed by the Council for the purpose of maintaining law and order on the Reserve;

“Reserve” means all lands that comprise the Tobique Indian Reserve; and

“Reserve Resident” means any member of the Tobique Band that resides on the Reserve and includes any person whether or not a Band Member that resides on the Reserve.

3. COMPLAINT AND INVESTIGATION

- 3.1 If Council receives a complaint from any Band Member and the Council reasonably believes that a person present on the Reserve may pose a threat to other persons on the Reserve and, may be a threat to the observance of law and order on the Reserve, the Council may, by Band Council

Resolution issue to such a person an Order to personally appear before Council to respond to the complaints to enable the Council to make a determination as to the veracity of the complaint, and to make such Orders as they deem necessary to eliminate the threat, or the perceived threat

- 3.2 The Council may require any person that is the subject of a complaint from a Band Member, and who has been Ordered to Appear before Council to provide written authorization to enable the Council to conduct Criminal Record Checks.
- 3.3 During the “investigation” stage in dealing with the complaint against any person, the Council may issue an Order to:
 - (i) prohibit or restrict that person from attending specified locations or events on the Reserve; and
 - (ii) prohibit that person from being within a prescribed distance from a particular person or persons.

4. DUE PROCESS

- 4.1 The Council shall treat the complainant and the person who is the subject of the complaint with respect;
- 4.2 The Council shall deal with complaints in an expeditious manner;
- 4.3 The Council may allow the subject of the complaint to have relatives or other representatives speak on their behalf.
- 4.4 The Council shall hold all proceedings in camera and, shall only post decisions IF a person has been designated as a dangerous person and any requirements limiting that person’s continuing access to the Reserve.
- 4.5 Any Order posted by the Council will not make reference to the substance leading to the Order.

5. DANGEROUS PERSON ON RESERVE

- 5.1 Once the Council has completed their investigation and discussions, and have concluded that the person that is the subject of the complaint poses a threat to the safety of Band Members and to the observance of Law and Order on the Reserve, then the Council may, by Band Council Resolution, designate such a person as a DANGEROUS PERSON.

- 5.2 In addition to designating such a person as a dangerous person the Council may by Band Council Resolution, do one or more of the following;
- (a) post the name of the dangerous person in a public place, or otherwise inform Reserve Residents of the presence of a dangerous person on the Reserve;
 - (b) issue an order to:
 - (i) prohibit or restrict the dangerous person from attending specified locations or events on the Reserve;
 - (ii) prohibit a dangerous person from being within a prescribed distance from a particular person or persons;
 - (iii) limit the duration for which a dangerous person may occupy the Reserve on a given visit;
 - (iv) limit the number of times a dangerous person may frequent the Reserve within a specified period of time;
 - (v) evict a dangerous person from housing on Reserve; and
 - (vi) banish a dangerous person from using, occupying, or possessing land on the Reserve, either for a specified duration or until express permission is granted in the form of a Band Council Resolution, for a period not exceeding one (1) year.
- 5.3 For greater certainty, an exercise of authority pursuant to this section may be renewed by Council on a yearly basis.

6. ENFORCEMENT

- 6.1 Where a person who is the subject of an Order made pursuant to Section 5 fails or refuses to comply with such an Order, an officer may take such reasonable measures as are necessary to enforce that Order.

7. OFFENSE AND PENALTY

- 7.1 A person who fails or refuses to comply with an Order made under this by-law, or who resists or interferes with an officer acting under Section 6, is guilty of an offense 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.

8. BY-LAW ENFORCEMENT OFFICER

8.1 Council may by Band Council Resolution, appoint a by-law enforcement officer.

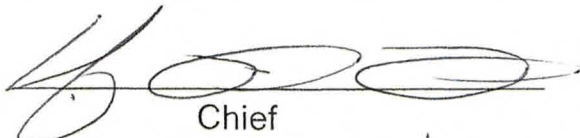
9. GENERAL


9.1 All references to the legislative provisions, of this by-law include amendments made thereto from time to time.

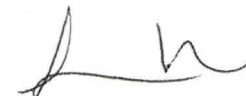
10. ENACTMENT


10.1 This By-Law is hereby enacted by the Council of the Tobique Indian Band at a duly convened meeting held on the 4th day of August, 2020.

December (RLP) (DAS) E.A.B. K.P. AB
Juno


Chief



Councillor Donald Hafke

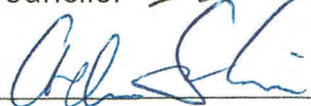

Councillor Aaron Nicholas

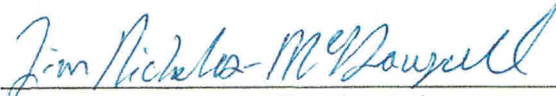

Councillor Edwin Bernard


Councillor Richard Moulton


Councillor


Councillor Kim Peckey


Councillor


Councillor Tim Nicholas-McDougall

Councillor

Councillor

Councillor

Councillor