M'Chigeeng First Nation Community Protection By-Law

PUPOSE:

The purpose of this Community Protection By-Law is to protect M'Chigeeng First Nation community from illegal drug activity and to remove Drug Dealers from M'Chigeeng First Nation Lands.

WHEREAS the M'Chigeeng Anishinabek is part of the Ojibway Anishinaabe who have resided in traditional lands since time immemorial, and

WHEREAS M'Chigeeng Anishinabek's status as an independent nation was affirmed by the Covenant Chain Wampum Belt of 1764, and

WHEREAS M'Chigeeng Anishinabek have historically been led by hereditary chiefs notably Chief Ogaa, Chief Niibaakhom and Chief Taibosegai. Chief Ogah was explained by Chief Wakegijig as a great chief of the Ojibways and one who best understood the Indian Laws, and

WHEREAS M'Chigeeng Anishinabek have and continues to exercise an inherent right to government, and

WHEREAS M'Chigeeng Anishinabek have adhered to a system of governance based upon Anishinabek society's concerns, beliefs, culture, customs, traditions, land and spirituality, and

WHEREAS M'Chigeeng Anishinabek have held and will hold to a continued effort to restore its authority and jurisdiction while endeavoring to strengthen government through its institutions, and;

WHEREAS lands have been held since time immemorial and recognized by the Royal Proclamation and the new government of Canada for the sole use of M'Chigeeng band members who are derived from indigenous members of the M'Chigeeng Anishinabek of the Ojibway tribe of peoples, and

WHEREAS the M'Chigeeng Anishinabek must create laws to ensure the protection, safety, and integrity of the M'Chigeeng Anishinabek and the Council of the M'Chigeeng Anishinabek considers it necessary to undertake measures for the protection, safety, and integrity of the Ojibway peoples of the M'Chigeeng Anishinabek, and

WHEREAS M'Chigeeng First Nation members have, over many years, repeatedly identified drug dealing and the use of drugs on the M'Chigeeng First Nation reserve as a serious health and safety concern.

WHEREAS M'Chigeeng First Nation Chief and Council, have witnessed increase deaths related to drug trafficking on M'Chigeeng First Nation and have a need to develop community protection laws for M'Chigeeng First Nation members and non-members for the purpose of removing drug dealers from the community.

WHEREAS it remains necessary for the observance of law and order, the prevention of disorderly conduct and nuisances, and to provide for the health of residents on the reserve that Chief and Council take steps to prevent the sale of Illegal Drugs on the M'Chigeeng First Nation reserve.

WHEREAS the M'Chigeeng First Nation declared a state of social emergency regarding illegal drugs and alcohol on March 8, 2021.

WHEREAS a special Chief & Council meeting was held on March 8, 2021 to review a draft framework for the banishment and eviction of drug dealers.

NOW THEREFORE Chief and Council hereby enact the following bylaw:

Definitions

1. "Community Protection Order" has the meaning set out in sections 4 and 5.

2. "Illegal Drugs" means any substance set out in Schedule I, II, or III of the *Controlled Drugs and Substances Act*, SC 1996, c 19, as amended, or otherwise prohibited by criminal law.

3. "Police" means any organization that provides police services or has jurisdiction to provide police services to the M'Chigeeng First Nation reserve.

Community Protection Orders

4. Where Chief and Council believe, on reasonable and probable grounds, that any person is engaged in the transportation, sale, or distribution of Illegal Drugs on the M'Chigeeng First Nation reserve or to residents of the reserve, Chief and Council may issue a Community Protection Order by band council resolution.

5. A Community Protection Order may make any provision reasonably necessary for the protection of community health and safety, including:

    a. prohibiting or restricting a person from attending specified locations or events on the M'Chigeeng First Nation lands;

    b. prohibiting a person from being within a prescribed distance from another person or persons;

    c. setting conditions, including time limits or other restrictions, for a person to attend on the M'Chigeeng First Nation lands;

    d. evicting a person from M'Chigeeng First Nation housing in accordance with the M'Chigeeng First Nation Housing Policy and any applicable housing agreements;

    e. banishing a person from using, occupying, possessing, or attending on land on the M'Chigeeng First Nation lands.

6. A Community Protection Order may be effective for a specified period of up to one year and may only be extended or amended pursuant to this bylaw.

Considerations

7. Chief and Council may consider the following factors in determining whether to issue, extend, or reconsider any Community Protection Order:

    a. Any credible information available to Chief and Council, including from Police, M'Chigeeng First Nation members, and other M'Chigeeng First Nation reserve residents.

    b. The existence of any relevant criminal charges and the specific findings or resolution of any criminal process.

    c. The risk of harm to any person, to public health or safety, or to Chief and Council's ability to ensure the observance of law and order on the M'Chigeeng First Nation reserve.

    d. The personal circumstances of any person that may be subject to a Community Protection Order, including their age, criminal record, prior character and background, community support, and any past or present rehabilitation efforts.

    e. The personal circumstances of other affected M'Chigeeng First Nation members or residents of the M'Chigeeng First Nation reserve.

    f. The circumstances of the M'Chigeeng First Nation as a whole, including the availability of resources.

    g. Whether any less restrictive order could reasonably satisfy the needs of the community.

8. Prior to issuing a Community Protection Order, Chief and Council shall provide notice to any person who may be subject to the order and shall provide a reasonable opportunity for that person to make oral or written submissions concerning any alleged conduct and the effect of that conduct and the person's presence on the M'Chigeeng First Nation reserve or any part thereof on public health, safety, and order.

9. The Community Protection Oder Notice may be waived or not provided in the following circumstances:

    a. The person affected is a non-band member and does not have a registered address in M'Chigeeng First Nation and is commonly know or have been identified as a drug dealer on M'Chigeeng First Nation.

Amendment, Extension, and Withdrawal of Community Protection Orders

10. Chief and Council may amend or extend a Community Protection Order for a specified or indefinite period of time after providing notice and an opportunity to make oral or written submissions to any person who may be subject to the order and to any M'Chigeeng First Nation members or residents of the M'Chigeeng First Nation reserve who may be affected by the order. Chief and Council shall consider any such submissions prior to amending or extending the Community Protection Order and shall provide written reasons for any amendment or extension.

11. Chief and Council may withdraw a Community Protection Order or any part thereof by resolution at any time.

Right of Reconsideration

12. A person who is subject to a Community Protection Order may apply to Chief and Council for reconsideration once at any time after the order is made, or any time to a maximum of once every 12 months after an order is extended.

13. An application for reconsideration shall set out in writing the factual circumstances on which it is based and any change in circumstances since the Community Protection Order was made, focusing on any risks related to the applicant's presence on the M'Chigeeng First Nation reserve or any part thereof to public health, safety, and order.

14. Chief and Council may request and consider further oral or written submissions from the applicant in addition to the written application for reconsideration.

15. Chief and Council shall provide notice and an opportunity to make oral or written submissions to any M'Chigeeng First Nation members or residents of the M'Chigeeng First Nation reserve who may be affected by an application for reconsideration.

16. Within 30 days, Chief and Council shall decide to either maintain, amend, or withdraw the Community Protection Order and shall provide written reasons for its decision. Chief and Council may extend that period for another 30 days with written reasons.

Offence

17. Any person subject to a Community Protection Order who attends on the M'Chigeeng First Nation reserve in violation of that order and without written permission from Chief and Council is subject to removal and liability as a trespasser on the reserve.

18. In addition to all applicable penalties for trespass or as otherwise prescribed by law, any person subject to a Community Protection Order who attends on the M'Chigeeng First Nation reserve in violation of that order and without written permission from Chief and Council is guilty of an offence punishable on summary conviction by a fine of up to $1,000, imprisonment for up to 30 days, or both.

Enforcement

19. A Community Protection Order shall be enforceable by Police and any other body or person delegated such authority by resolution.

20. Chief and Council may stay the enforcement of a Community Protection Order or any part thereof for a specified or indefinite period of time by resolution.

21. This bylaw is effective immediately.

Ogimaa Kwe Linda Debassige

Councillor, Charles Beaudin

Councillor, Jeanine Debassige

Councillor, Samuel Debassige

Councillor, Daughness Migwans

Councillor, Henry Panamick Sr.

Councillor, Dennis Corbiere

Councillor, Martin Debassige

Councillor, Joseph Hare

Councillor Thomas Hare

Vacant