

CHIPPEWAS OF MNJIKANING FIRST NATION
Being a Band within the meaning of the *Indian Act*

**MNJIKANING FIRE & RESCUE SERVICE
ESTABLISHING AND REGULATING BY-LAW**

BY-LAW NO. 06-04

Enacted on the 8th day of August, 2006.

**BEING A BY-LAW TO REPEAL AND REPLACE
BY-LAW NO. 80-14; AND
BY-LAW NO. 82-19**

WHEREAS the Chippewas of Mnjikaning First Nation recognizes and affirms its inherent right of self-government and jurisdiction to pass laws and powers, and its authority pursuant to the *Indian Act* to create by-laws providing for the health and safety of the residents on and visitors to the Mnjikaning First Nation Territory;

AND WHEREAS it is desirable, in the interest of promoting health, safety and welfare of all members of, employees and visitors to the Chippewas of Mnjikaning First Nation to ensure fire protection and prevention services are provided within the First Nation;

AND WHEREAS the Chippewas of Mnjikaning First Nation has established a professional fire and rescue service to provide fire protection and prevention services within the First Nation;

AND WHEREAS the Chief and Council of Chippewas of Mnjikaning First Nation did previously enact an Establishing and Regulating By-Law #80-14 on November 14, 1980 which was amended by By-Law #82-19 enacted on April 7, 1982; and Chief and Council wish to repeal By-Laws #80-14 and #82-19 and replace those with this By-Law;

NOW THEREFORE the Chief and Council of the Chippewas of Mnjikaning First Nation hereby enacts as follows:

SHORT TITLE

1. This By-Law may be cited as the “Establishing and Regulating By-Law”.

DEFINITIONS

2. In this By-Law, unless the context otherwise requires,

- 2.1. "Approved" means Approved by the Chief and Council;
- 2.2. "Division" means a Division of the Fire Department as provided for in this By-Law;
- 2.3. "FNM" means the First Nations Manager appointed by Chief and Council to act as chief administrative officer for the First Nation;
- 2.4. "First Nation" means the Chippewas of Mnjikaning First Nation;
- 2.5. "Chief and Council" means the Chief and Council of the First Nation;
- 2.6. "Deputy Fire Chief" means the person appointed by the Chief and Council to act on behalf of the Fire Chief in the case of an absence or a vacancy in the office of the Fire Chief;
- 2.7. "Fire Chief" means the person appointed by Chief and Council to act as Fire Chief for the First Nation and is ultimately responsible to Chief and Council as defined in this By-Law;
- 2.8. "Fire Department" means the Mnjikaning Fire Rescue Services;
- 2.9. "FPPA" means the *Fire Protection and Prevention Act, 1997, S.O., C-4*, as may be amended from time to time, and any regulation made there under;
- 2.10. "Fire Protection Services" includes fire suppression, fire prevention, fire safety education, communications, training of persons involved in the provision of Fire Protection Services, rescue and emergency services and the delivery of all those services;
- 2.11. "Member" means any other person employed in or appointed to the Fire Department and assigned to undertake Fire Protection Services and includes officers, full time, part time and volunteer firefighters;
- 2.12. "National Code" means the *National Fire Code of Canada 2005*, issued by the Canadian Commission on Building and Fire Codes of the National Research Council of Canada, as amended from time to time;
- 2.13. "Ontario Code" means the *Ontario Fire Code (O. Reg. 388/97 amended to O. Reg. 650/05)* of the FPPA, as amended from time to time;
- 2.14. "Volunteer Firefighter" means a firefighter who provides Fire Protection Services either voluntarily or for a nominal consideration, honorarium, training or activity allowance.

LEGISLATION

3. This By-Law incorporates the Ontario Code and those specific sections of the FPPA, as amended from time to time, which are appropriate to the provision of Fire Protection, suppression and prevention services on the First Nation. Specifically the following sections of the FPPA are incorporated into this By-Law: Part I – Definitions; Part III – Fire Marshal; Part IV – Fire Code; Part V – Rights of Entry in Emergencies and Fire Investigations; Part VI – Inspections; Part VII – Offences and Enforcement; Part VIII – Recovery of Costs; Part X – Fire Safety Commission; and Part XII - Miscellaneous.

FIRE SAFETY STANDARDS

4. In order to ensure the highest fire safety standards within the community, the applicable standard in Fire Protection Services within the First Nation is the more stringent of either the National Code or the Ontario Code.

ESTABLISHMENT

5. The Fire Department is continued under this By-Law to provide Fire Protection Services for the First Nation and shall be known as the Mnjikaning Fire Rescue Service and the head of the Fire Department shall be known as the Fire Chief.

COMPOSITION

6. The Fire Department shall consist of the Fire Chief, a Deputy Fire Chief, Fire Prevention Officer, Training Officer, senior divisional officers, captains, lieutenants, other officers, administrative support staff and any other member as may be authorized or considered necessary from time to time by Chief and Council.

EMPLOYMENT

7. The Fire Chief, in consultation and coordination with the Human Resources Department, may recommend to the Chief and Council the employment in or appointment to the Fire Department, as the case may be, of any person as an officer or member or as an administrative support staff, who meet the qualifications and, if applicable, successfully completes criteria (including without limitation training courses and physical, skills and other examinations) and otherwise satisfies the hiring policies, practices or procedures established or Approved by Chief and Council for such employment or appointment.

PROBATION

8. Persons appointed as members of the Fire Department to provide Fire Protection Services shall be on probation for a minimum period of 12 months, during which period they shall take such special training and examination as the training schedule may permit and as may be required by the Fire Chief. In the event that the required training is not completed within the first 12 months of employment due to conflicts with the training calendar, the probationary period may be extended until such time as the required training is completed.

9. If a probationary member appointed to provide Fire Protection Services fails any such examinations, the Fire Chief, in consultation and coordination with the Human Resources Department, may recommend to the Chief and Council that he/she be dismissed.

TERMS AND CONDITIONS OF EMPLOYMENT

10. The remuneration and other terms or conditions of employment or appointment of the members and administrative support staff that comprise the Fire Department shall be determined by Chief and Council or by the FNM acting in accordance with policies and programs established or Approved by Chief and Council.

ORGANIZATION

11. The Fire Department shall be organized into Divisions such as:

- 11.1. Fire Prevention;
- 11.2. Fire Suppression;
- 11.3. Training;
- 11.4. Communications;
- 11.5. Mechanical; and
- 11.6. Administration.

12. The Fire Chief, with prior approval of the FNM, may re-organize or eliminate Divisions or establish other Divisions or may do all or any of these things or any combination of them as may be required to ensure the proper administration and efficient operation of the Fire Department and the effective management of Fire Protection Services for the First Nation.
13. The Fire Chief may assign or re-assign such members to a Division as necessary to assist in the administration and operation of that Division.

RESPONSIBILITIES AND AUTHORITY OF THE FIRE CHIEF

14. The Fire Chief is ultimately responsible to Chief and Council, through the FNM, for proper administration and operation of the Fire Department including the delivery of Fire Protection Services.
15. The Fire Chief shall implement all policies Approved by Chief and Council, and shall develop such standard operating procedures and guidelines, general orders and department rules as necessary to implement the Approved policies and to ensure the appropriate care and protection of the community, all Fire Department personnel and Fire Department equipment.

16. The Fire Chief shall review periodically all policies, orders, rules and operating procedures of the Fire Department and may establish an advisory committee consisting of such members of the Fire Department as the Fire Chief may determine from time to time to assist in these duties.
17. The Fire Chief shall submit to the Chief Financial Officer (CFO) and Chief and Council for approval, the annual budget estimates for the Fire Department in accordance with Mnjikaning First Nation Finance Policy; and an annual report and any other specific reports as requested by the FNM or Chief and Council.
18. Each division of the Fire Department is the responsibility of the Fire Chief and is under the direction of the Fire Chief or a member designated by the Fire Chief. Designated members shall report to the Fire Chief on divisions and activities under their supervision and shall carry out all orders of the Fire Chief.
19. Where the Fire Chief designates a member to act in the place of an officer in the Fire Department, such member, when so acting, has all of the powers and shall perform all duties of the officer replaced.
20. In accordance with First Nation policy and in consultation with the Mnjikaning First Nation Human Resources Department, the Fire Chief may reprimand, suspend or recommend dismissal of any member for infraction of any provisions of this By-Law, policies, general orders and departmental rules that, in the opinion of the Fire Chief, would be detrimental to discipline or the efficiency of the Fire Department.
21. The Fire Chief shall take all proper measures for the prevention, control and extinguishment of fires and the protection of life and property and shall exercise all powers mandated by this By-Law, and the Fire Chief shall be empowered to authorize:
 - 21.1. pulling down or demolishing any building or structure to prevent the spread of fire;
 - 21.2. all necessary actions which may include boarding up or barricading of buildings or property to guard against fire or other danger, risk or accident, when unable to contact the property owner; and
 - 21.3. recovery of expenses incurred by such necessary actions for the First Nation.

EMERGENCY RESPONSE OUTSIDE THE LIMITS OF THE FIRST NATION

22. The Fire Department shall not respond to a call with respect to a fire or emergency outside the limits of the First Nation except with respect to a fire or emergency:
 - 22.1. that, in the opinion of the Fire Chief or designate of the Fire Chief, threatens property in the First Nation or property situated outside the First Nation that is owned or occupied by the First Nation;

- 22.2. in a municipality with which an Approved agreement has been entered into to provide Fire Protection Services which may include automatic aid;
- 22.3. on property with which an Approved agreement has been entered into with any person or corporation to provide Fire Protection Services;
- 22.4. at the discretion of the Fire Chief, to a municipality authorized to participate in any county, district or regional mutual aid plan established by a fire coordinator appointed by the fire marshal or any other similar reciprocal plan or program;
- 22.5. on property beyond the First Nation boundary where the Fire Chief or designate determines immediate action is necessary to preserve life or property and the appropriate department is notified to respond and assume command or establish alternative measures, acceptable to the Fire Chief or designate.

DEPUTY FIRE CHIEF

23. The Deputy Fire Chief shall be the second ranking officer of the Fire Department and shall be subject to and shall obey all orders of the Fire Chief and shall perform such duties as are assigned to him or her by the Fire Chief and shall act on behalf of the Fire Chief in case of absence or a vacancy in the office of Fire Chief.
24. In the absence of the Fire Chief or Deputy Fire Chief, the Fire Prevention Officer or any other designated officer is authorized to carry out the duties of the Chief Fire Official.

SUPERVISION

25. The members and administrative support staff of the Fire Department while on duty shall be under the direction and control of the Fire Chief or the next ranking officer present in any place.

GENERAL DUTIES AND RESPONSIBILITIES

26. Every member and administrative support staff person shall conduct themselves in accordance with general orders, policies, procedures, rules and regulations made by the Fire Chief, shall comply with all Mnjikaning First Nation policy, and shall give their whole and undivided attention while on duty to the efficient operation of the Fire Department and shall perform the duties assigned to them to the best of their ability in accordance with this By-Law, applicable legislation and any other written agreement that may be applicable.

PROPERTY

27. No person shall willfully damage or render ineffective or inoperative any apparatus equipment or other property belonging to or used by the Fire Department.

FIRE PREVENTION

28. Fire Prevention Officers shall have the same authority under this By-Law as set out in the provisions of the FPPA incorporated herein, to conduct fire prevention inspections and to examine plans and specifications of any new building and/or alterations to existing buildings for compliance with the highest fire safety standards as necessary to promote and enhance the fire safety of the community.
29. Fire Prevention Officers may request the assistance of Mnjikaning Police Services, a representative of the Ontario Fire Marshal's Office, or other such person as he or she considers advisable to assist with an inspection.

FIRE SUPPRESSION

30. The Fire Department may suppress any fire or other hazardous condition by extinguishing it or by other reasonable action and, for this purpose, may enter private property, if necessary, to do so.

REFUSAL TO LEAVE

31. No person present at a fire or emergency scene shall refuse to leave the immediate vicinity when required to do so by the Fire Department.

CONDUCT AT FIRES

32. During a fire and for the time after it has been extinguished that is required to remove the apparatus and equipment of the Fire Department and render the location and vicinity safe from fire, no person, either on foot or with a vehicle of any kind, shall enter or remain upon or within,
- 32.1. the portion of any street or lane upon which the site of the fire abuts or upon any street or lane for a distance of fifteen (15) metres on each side of the property damaged by fire; or
 - 32.2. any additional street or lane or part of a street or lane or any additional limits in the vicinity of the fire as may be prescribed by the Fire Chief or the next ranking officer present at the fire.
33. The provisions of subsection 32 of this By-Law shall not apply to a resident of any street or lane or within any prescribed additional limit or to any person so authorized to enter or remain by an officer of the Fire Department or by a police officer.

INTERFERENCE

34. No person shall impede or interfere with or hinder the Fire Department in the performance of its duties.

FIRE ALARM

35. No person shall prevent, obstruct or interfere in any manner whatsoever with the communication of a fire alarm to the Fire Department or with the Fire Department responding to a fire alarm that has been activated.

OFFENCES

36. Any person who contravenes any provisions of this By-Law, the provisions of the FPPA incorporated herein, or who fails or refuses to comply with an order made under this By-Law is guilty of an offence.

PENALTY

37. A person who commits an offence under this By-Law is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding thirty days, or to both.

SEVERABILITY

38. If any section or part of this By-Law is found to be invalid for any reason, such section or part or item shall be deemed to be severable and all other sections or parts of this By-Law shall be deemed to be separate and independent therefrom and to be enacted as such.

39. This By-Law comes into effect the day it is passed by Chief and Council.

REPEALED

40. Establishing and Regulating By-Law #80-14 enacted on November 14, 1980; and the subsequent Amending By-Law #82-19 enacted on April 7, 1982; being By-Laws to establish and regulate the Fire Department are hereby repealed.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Chief and Council of the Chippewas of Mnjikaning First Nation this 8th day of August, 2006.

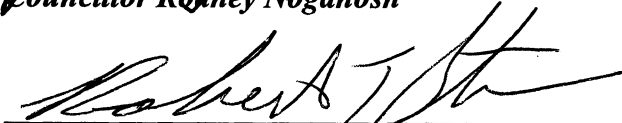
Voting in favour of the By-Law are the following members of Chief and Council:

Chief and Council Signatures of Approval

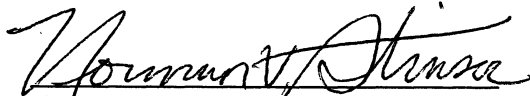

Chief Sharon Stinson Henry



Councillor Rodney Noganosh


Councillor George St. Germain


Councillor Robert T. Stinson

Councillor Ellis Snache


Councillor Norman V. Stinson


Councillor Byron Stiles

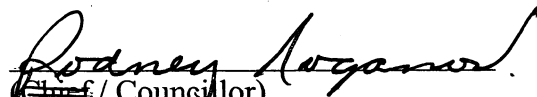
Being the majority of those members of the Council of the Chippewas of Mnjikaning First Nation present at the aforesaid meeting of Chief and Council.

The quorum of Chief and Council is four members.

Number of members of Chief and Council present at the meeting: 6.

I, ROONEY NOGANOSH ~~Chief~~ / Councillor of the First Nation, do hereby certify that a true copy of the foregoing By-Law was mailed to the Minister of Indian Affairs and Northern Development at the Band Governance Directorate, Ottawa, pursuant to subsection 82(1) of the *Indian Act*, this 8th day of AUGUST, 2006.


(Witness)


~~Chief~~ / Councillor