

**BY-LAW NO. 05-2018**  
**of the Madawaska Maliseet First Nation**

**A BY-LAW FOR THE PREVENTION OF DISORDERLY CONDUCT AND  
NUISANCES**

**WHEREAS** the Council of the Madawaska Maliseet First Nation desires to make a by-law governing the prevention of disorderly conduct and nuisances, with respect to any matter arising out of or ancillary to the exercise of powers under section 81, and for the imposition of a penalty for a violation thereof;

**AND WHEREAS** the Council of the Madawaska Maliseet First Nation is empowered to make such by-law pursuant to paragraphs 81(1)(d), (q) and (r) of the *Indian Act*;

**AND WHEREAS** it is considered to be expedient and necessary for the benefit, comfort and safety of the inhabitants of the St. Basile Indian Reserve #10 to provide for the prevention of disorderly conduct and nuisances on the reserve;

**NOW THEREFORE** the Council of the Madawaska Maliseet First Nation hereby makes the following by-law:

**Short Title**

1. This by-law may be cited as the "Disorderly Conduct and Nuisances By-law".

**Interpretation**

2. In this by-law,

"*Band*" means the Band;

"*Council*" means the Council of the Band;

"*Disorderly conduct*" means any act or behaviour, including, but not limited to:

- a. Physical fighting;
- b. Bullying;
- c. Making or causing unreasonable noise;
- d. Using abusive or threatening language;
- e. Using offensive or indecent gestures or displays;
- f. Being drunk on public property;
- g. Loitering;
- h. Exposing, firing or discharging any gun, pistol or other firearm, or using or threatening to use any other article as a weapon, except in the defence of life or property; or

- i. Interfering in any manner with the orderly conduct of commercial, administrative, educational, recreational, health care, religious or ceremonial activities on the Reserve;
- j. Removing, defacing, destroying, damaging, mutilating, or in any manner whatsoever vandalizing public property on the reserve,

that disrupts public order on the reserve, scandalizes the community, or cause public inconvenience, annoyance or alarm;

"*Nuisance*" means any act, activity or condition, including, but not limited to:

- a. the abandonment of buildings, cars, household appliances or furniture, or parts of cars, household appliances or furniture;
- b. the storage of abandoned cars, household appliances or furniture, or parts of cars, household appliances or furniture;
- c. the dumping or storage of tires, garbage or other refuse;
- d. the burning of tires, grass, garbage, leaves or other refuse;
- e. allowing noxious weeds to grow in a residential area;
- f. the discharge of any substance into the air or water;
- g. noise;
- h. filming individuals, on their private property, without their permission;

that materially impairs, otherwise than by direct physical interference, the use and enjoyment of a person's property, or that prejudicially affects a person's health, comfort or convenience or the public health, safety or welfare of the reserve community, but does not include any act, activity or condition to the extent it is unavoidably necessary for carrying on any business or other means of livelihood authorized by the Council;

"*Officer*" means any police officer, police constable or other person charged with the duty to preserve and maintain the public peace, and a by-law officer or any other person appointed by the Council for the purpose of maintaining law and order on the reserve;

"*Person*" includes a corporation;

"Public Property" means and includes any building, bridge, park or the facilities and equipment located therein, and any land, body of water, structure, premises or equipment of whatsoever nature belonging to the Madawaska Maliseet First Nation or maintained by the Council or any of its staff or committees on behalf of the Band members of the Madawaska Maliseet First Nation;

"*Reserve*" means the reserve of the Madawaska Maliseet First Nation and includes the Band's Reserve No. 10.

### Disorderly Conduct

3.(1) Everyone who commits an act of disorderly conduct is guilty of an offence.

(2) An officer may order any person who is engaging in any disorderly conduct to stop such conduct immediately.

### **Nuisance**

4(1) Everyone who creates or causes a nuisance is guilty of an offence.

(2) An officer may order any person who is causing or who threatens to cause a nuisance on the reserve to refrain from causing the nuisance or to abate the nuisance within such period as is reasonable in the circumstances.

(3) In determining whether a period fixed under subsection (2) was reasonable in the circumstances, the officer shall take into account:

- a. the nature and extent of the nuisance;
- b. the methods available to abate the nuisance;
- c. the approximate time required to abate the nuisance; and
- d. the effect of the order on any business or means of livelihood of the person who is the subject of an order.

### **Enforcement**

5.(1) Where a person who has been ordered to refrain from engaging in disorderly conduct, or causing a nuisance or to abate a nuisance within a specified period, fails or refuses to comply with the order, an officer may take such reasonable measures as are necessary to stop the disorderly conduct, or to prevent or to abate the nuisance.

(2) A person who fails or refuses to comply with an order made under subsection 3(2) or 4(2) or who resists or interferes with an officer acting under subsection 5(1), commits an offence.

### **Penalty**

6. 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.

7. Should a court determine that a provision of this by-law is invalid for any reason, the provision shall be severed from the by-law and the validity of the rest of the by-law shall not be affected.

8. This By Law comes into effect on the date that Council signs.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Band this 4<sup>th</sup> day of September, 2018.

Voting in favour of the by-law are the following members of the Council:

  
(Member of the Council)

  
(Member of the Council)

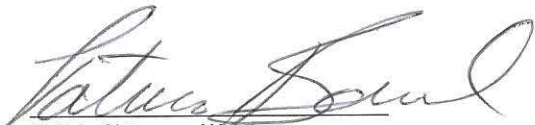
  
(Member of the Council)

being the majority of those members of the Council of the Band present at the aforesaid meeting of the Council.

The quorum of the Council is 3 members.

Number of members of the Council present at the meeting: 3.

Therefore, the Madawaska Maliseet First Nation's By Law No. 05-2018 for the Prevention of Disorderly Conduct and Nuisances is now in effect.

  
(Chief/Councilfor)

  
(Witness)