

Garden River First Nation

By-Law No. 2020-02

COVID-19 Virus By-Law

COVID-19 VIRUS BY-LAW: A by-law to protect the members, residents and persons on the Garden River First Nation from serious threats to their health, safety and well-being and to limit and prevent the spreading of COVID-19 on the reserve.

WHEREAS the *Indian Act, R.S.C., 1985, c. 1-5, Section 81(1)(a)* states that the Council of a band may make by-laws not inconsistent with this Act or with any regulation made by the Governor in Council or the Minister, for any or all of the following purposes, namely,

- (a) to provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases;

AND WHEREAS the Council has the authority to make by-laws pursuant to the *Indian Act, R.S.C., 1985, c. 1-5, Section 81(1)(a)* to provide for the health of residents on the Reserve and to seek to limit and prevent the spread of the COVID-19 virus which is a contagious and infectious disease;

AND WHEREAS the Garden River First Nation acts through its elected Chief and Council in exercising its rights, powers and privileges and in carrying out its duties, functions and obligations as a First Nation, including the development and implementation of laws, regulations and policies that are deemed necessary to ensure the well-being of the residents of the Garden River First Nation.

AND WHEREAS members of the Garden River First Nation may belong to groups who have special vulnerability to the effects of COVID-19, namely, elderly people, and those with underlying medical problems like cardiovascular disease, diabetes, chronic respiratory disease, and cancer;

AND WHEREAS on March 11th, 2020, the World Health Organization, a specialized agency of the United Nations responsible for worldwide public health and providing

leadership on international health matters, declared the COVID-19 virus to be a Pandemic;

AND WHEREAS on March 17th, 2020, the Province of Ontario declared a state of emergency pursuant to public health advice under Ontario's Emergency Management and Civil Protection Act in respect to the COVID-19 virus pandemic and have passed a number of orders to limit the spread of the COVID-19 virus;

AND WHEREAS on March 31st, 2020, the First Nation of Garden River declared a state of emergency, as per Resolution No. 2019-2020-37, after considering public health advice and information received from Health Officials from the Garden River Wellness Center, the Province of Ontario and the Government of Canada;

AND WHEREAS the Province of Ontario has confirmed multiple confirmed cases of the COVID-19 virus and, as of the date of passage of this By-Law, the number of confirmed cases continues to rise;

NOW THEREFORE, the Council of the Garden River First Nation enacts, pursuant to the *Indian Act, R.S.C., 1985, c. 1-5, Section 81(1)(a)*, the following:

SECTION 1

1. SHORT TITLE

- a. This By-Law may be cited as the **Garden River First Nation COVID-19 Virus By-Law**.

SECTION 2

2. DEFINITIONS

In this By-Law,

- a. **"Competent Authority"** means Council, the Pandemic Response Coordinator, Health Director, any Officer, and any person acting on any of their direction.

- b. **"Council"** means the elected members of the Garden River First Nation, namely, the Chief and Councillors.
- c. **"Emergency"** means a current or imminent event, related to COVID-19, that requires prompt coordination of actions concerning persons or property to protect the health, safety or welfare of people or to limit damage to property or the environment.
- d. **"Emergency COVID-19 Pandemic Response WorkPlan"** means the Garden River First Nation Master Emergency COVID-19 Pandemic Response WorkPlan and as may be further revised pursuant to this By-Law.
- e. **"Officer"** means any peace officer, police officer, or other person vested with the duty to preserve life and maintain the public peace, and any person appointed by Council for the purpose of enforcing this By-Law, including individuals who are not peace officers.
- f. **"Order"** includes a resolution passed by Council and a direction given by a Competent Authority, whether in writing or otherwise.
- g. **"Pandemic Response Coordinator"** means the individual to whom the responsibilities are assigned as set out in the *Emergency COVID-19 Pandemic Response WorkPlan*.
- h. **"Reserve"** means the portion of the Garden River First Nation territory, I.R. No. 14, defined as a "reserve" within the meaning of the *Indian Act, R.S.C., 1985, c. 1-5, Section 2(1)* and set aside for the use and benefit of the Garden River First Nation.
- i. **"Senior Administrator"** means a person(s) designated to serve as the highest ranking executive whose primary responsibilities include making major corporate decision, managing the overall operations and resources, acting as the main link between Governance and Administration and Chief and Council, who participates in the design

and execution of all programs and services at both the strategic and operational levels; commonly referred to as the Senior Management Team, Executive Director, Chief Administrative Officer or Chief Executive Officer.

- j. **"State of Emergency"** means where an emergency exists on the Reserve that requires immediate action to prevent, reduce, mitigate a danger of major proportions that could result in serious harm to persons or substantial damage to property on the Reserve.
- k. **"Vehicle"** means an automobile, motorcycle, motor assisted bicycle, trailer, traction engine, farm tractor, road-building machine, bicycle, motorized snow vehicle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motor vehicle running only upon rails or railway equipment.

SECTION 3

3. TERMINATION OF THE STATE OF EMERGENCY

- a. The State of Emergency declared on March 31st, 2020, as per Resolution No. 2019-2020-37, is terminated by Council at any time by passing a resolution terminating the State of Emergency.

SECTION 4

4. IMPLEMENTATION OF THE EMERGENCY COVID-19 PANDEMIC RESPONSE WORKPLAN

- a. The Chief, Council or their designate may take such action and make such orders as provided for under the Emergency COVID-19 Pandemic Response WorkPlan, as considered necessary and that are not contrary to law to protect the health, safety, welfare and property of the residents of the Reserve in respect of the COVID-19 virus.

- b. The following members of Council are hereby designated to exercise the powers and perform the duties and responsibilities of the Chief under the Emergency COVID-19 Pandemic Response WorkPlan,
 - i. During the absence of the Chief from the Reserve; or
 - ii. To whom functions of the Chief may be directed, authorized or delegated to carry out under this By-Law:
 - 1. The Community Safety Portfolio Councillors appointed by the Chief, and any other persons appointed hereafter, namely:
 - a. Chester Langille,
 - b. Morley Pine, and
 - c. Craig Sayers
 - d. Chris Solomon Sr.
 - 2. The Social Services Portfolio Councillors appointed by the Chief, and any other persons appointed hereafter, namely:
 - a. Caroline Barry,
 - b. Cindy Belleau-Jones,
 - c. Karen Bell, and
 - d. Richard Pine
- c. The Pandemic Response Coordinator or his/her designate shall be responsible to lead the implementation of the Emergency COVID-19 Pandemic Response WorkPlan.

SECTION 5

5. APPLICATION

- a. This by-law applies to all areas of the Reserve.

- b. This by-law applies to all members, residents and persons on the Reserve, including seasonal and daily visitors.

SECTION 6

6. POWERS DURING STATE OF EMERGENCY

- a. Under this By-Law, Council may,
 - i. Amend the Emergency COVID-19 Pandemic Response WorkPlan from time to time;
 - ii. Make such resolutions it considers necessary and not contrary to any law in respect of the matters set out in Section 6(b), after seeking and considering advice from the Senior Administrator, health officials from the Garden River Wellness Center, health officials from the Province of Ontario, health officials from the Government of Canada, the Pandemic Response Coordinator, and/or any other person as may otherwise be deemed appropriate;
 - iii. Make resolutions to direct, authorize, or delegate to the Chief or the Senior Administrator the ability to take actions, and make such orders as the Chief or the Senior Administrator considers necessary and not contrary to law in respect of the matters set out in Section 6(b), after seeking and considering advice from the Senior Administrator, health officials from the Garden River Wellness Center, health officials from the Province of Ontario, health officials from the Government of Canada, the Pandemic Response Coordinator, and/or any other person as may otherwise be deemed appropriate;

iv. On order to implement or amend the Emergency COVID-19 Pandemic Response WorkPlan under this By-Law, or to otherwise protect property and the health, safety and welfare of the members, residents and persons on the Reserve under this By-Law.

b. Under this By-Law, Council or other persons to whom such powers described in Section 6(a)(iii) have been delegated, may make orders with respect to the following matters:

- i. Implementing or amending the Emergency COVID-19 Pandemic Response WorkPlan and delegating persons to implement this WorkPlan under this By-Law;
- ii. Implementing orders under this By-Law, and delegating persons to implement orders made under this By-Law;
- iii. Regulating or prohibiting travel or movement by vehicle or by foot onto or off of the Reserve, by any means including land, air or water;
- iv. Regulating or prohibiting travel or movement by vehicle or by foot for persons on the Reserve;
- v. Limiting the number of persons in any indoor facility, office, business, venue or private gathering not contrary to any laws;
- vi. Limiting the number of persons in any outdoor gathering space not contrary to any laws;
- vii. Evacuating individuals and animals and removing or relocating personal property from any area on the Reserve and arranging

for the adequate care and protection of individuals, animals and property;

- viii. Establishing facilities for the care, welfare, safety and shelter of individuals on a Reserve;
- ix. To limit, prevent, respond to or alleviate the effects of the COVID-19 virus for the health and well-being of the residents, close any place, whether public or private, including any business, sole proprietorship, office, school, clinic, or any other establishment or institution on the Reserve.
- x. To limit, prevent, respond to or alleviate the effects of the COVID-19 virus for the health and well-being of the residents, place or construct barriers and other works, restore necessary facilities and appropriate, use, destroy, remove, relocate or dispose of property;
- xi. Collecting, transporting, storing, processing and disposing of any type of waste;
- xii. Authorizing facilities, including electrical generating facilities and water facilities, to operate as is necessary to respond to or alleviate the effects of the COVID-19 virus on the Reserve;
- xiii. Using any necessary good, services and resources within any part of the Reserve, and making available necessary goods, services and resources and establishing centers for their distribution;
- xiv. Procuring necessary goods, services and resources, including taking possession and control of privately-owned property for the duration of the State of Emergency;

- xv. Fixing prices for necessary goods, services and resources and prohibiting the charging of unreasonably high prices in respect of necessary goods, services and resources;
- xvi. Authorizing, but not requiring, any person to render services of a type that the person is reasonably qualified to provide; and
- xvii. Taking such other actions or implementing such other measures as the Council considers necessary in order to limit, prevent, respond to or alleviate the effects of the COVID-19 virus.

SECTION 7

7. EXEMPTIONS

- a. Notwithstanding anything contained in this by-law, any person may make application to Council to request an exemption from any parts contained in Section 6(b) of this by-law.
- b. The Council or their designate may take such action and direct the Senior Administrator to accept an application made under Section 7(a) providing that the application, notwithstanding anything contained in this by-law is emergent in nature and circumstances require an immediate exemption and that is not contrary to any other law to protect the health, safety, welfare and property of the members, residents and persons of the Reserve in respect of the COVID-19 virus.
- c. An officer may make an exemption of any parts of this By-Law, they deem necessary, pursuant to exigent circumstances and that is not contrary to any other law, for the health, safety, welfare and property of the members, residents and persons of the Reserve.

SECTION 8

8. SIGNAGE REQUIRED

- a. At each location where a road has been closed for vehicle access, a barrier shall be erected with signage stating "ROAD CLOSED TO VEHICLE AND PEDESTRIAN ACCESS" not less than 36 inches in height and 24 inches in width.
- b. At any roads allowing member access, a checkpoint may be established with speed bumps, adequate lighting, audio/video surveillance, stop signs not less than 12 inches in height and 12 inches in width, signage stating "All vehicles must stop and all occupants must be screened before entering the Community" not less than 36 inches in height and 24 inches in width.
- c. At any closed business or department, a sign shall be posted stating "Building Closed" not less than 11 inches in height and 8 inches in width at each entrance, as well as,
 - i. Contact names and phone numbers of essential employees, and,
 - ii. After hours contact names and phone numbers for emergencies.
- d. No person shall remove, cover up or alter any sign that has been posted pursuant to Section 8 of this by-law.

SECTION 9

9. ENFORCEMENT OF ORDERS

- a. An Officer is authorized and directed to enforce this by-law.
- b. An Officer may ask questions of individuals who are seeking to enter or leave the Reserve, whether on foot or in any vehicle of any sort

(whether motorized or not), or who are on the Reserve, as are reasonably necessary to determine if the individuals are acting in compliance with any Order made under Section 6(b), and may take such measures as are reasonable necessary to require such individuals to comply with the said Orders.

- c. Where any person contravenes any provision of the by-law, an Officer may direct such person to comply with this by-law. Every person so directed shall comply with such direction without delay.
- d. Any officer who has reasonable grounds to believe that a person has contravened any provision of this by-law may require that person to provide identification to the Officer.
- e. Every person who is required by an Officer to provide identification under Section 9(d) herein, shall identify himself or herself to the Officer, sufficient identification shall be their correct name, date of birth, and address. Failure to provide sufficient identification shall constitute obstruction of the Officer as set out in Section 10 of this by-law.
- f. All individuals, including residents of the Garden River First Nation and other persons on the Reserve, businesses, sole proprietorships, offices, schools and other establishments or institutions occupying buildings or other areas on the Reserve, are required to follow any Order made by a Competent Authority.
- g. No person shall interfere with or obstruct an officer who is enforcing any Order made under this By-law, or fail to comply with an Officer's order to enforce this By-Law.

SECTION 10

10. OFFENCES, ENFORCEMENT AND PENALTIES

- a. Every person who contravenes an Order made by a Competent Authority of this by-law, and any person who assists a person who is contravening an Order made by a Competent Authority of this by-law, is guilty of an offence.
- b. Any person who is found guilty of an offence under this By-Law is subject to:
 - i. A fine not exceeding one-thousand dollars (\$1000.00);
 - ii. Imprisonment for a term not exceeding thirty (30) days; or
 - iii. Both.
- c. Each day a person is in contravention of an Order made by a Competent Authority represents a separate offence and is subject to the penalties set forth in Section 10(b) of this By-Law.
- d. A monetary penalty under this Section is payable directly to "Garden River First Nation".
- e. A monetary penalty that remains unpaid past the date on the which it is due shall be registered as a debt owed to Garden River First Nation and may be set off against any sums due to the offender by Garden River First Nation.
- f. In addition to any other remedy, and in addition to any prescribed penalty set out in Section 10(b), the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted.

- g. In addition to any other remedy, and in addition to any prescribed penalty set out in Section 10(b), Council may apply to a court of competent jurisdiction to obtain an order restraining any activity that contravenes an Order made by a Competent Authority, whether or not a conviction has been imposed.
- h. Without limiting the jurisdiction of any other court of competent jurisdiction, including the Ontario Superior Court of Justice, the Federal Court has original jurisdiction in respect of any matter in connection with the enforcement of an order made by a Competent Authority under this by-law.

SECTION 11

11. GENERAL

No Liability

- a. None of the Council, members, employees, representatives, designates, or agents of any person of the Garden River First Nation are liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this by-law or from the neglect or failure, for any reason or in any manner, to enforce any Order made under this by-law.

Severability

- b. If a court of competent jurisdiction determines that a provision or portion of a provision of this by-law is invalid for any reason, the provision or portion shall be severed from the by-law and the validity of the remaining provisions of this by-law shall remain in full force and effect.

- i. Council may replace the severed provision or portion of a provision with another, if they wish to do so, in order to maintain or adapt the intent of this by-law.

SECTION 12

12. COMING INTO FORCE, DURATION AND PUBLICATION

- a. This by-law comes into force the day it is enacted by Council by means of Motion and Resolution.
- b. This by-law will remain in force until Council repeals it.
- c. Upon coming into force, or any amendments of this by-law, publication of this by-law shall include,
 - i. The posting of this by-law in a public area at the Garden River First Nation Administration Building, containing,
 - 1. The date that this by-law came into force; and
 - 2. A summary of this by-law.
 - ii. The publication of this by-law in the Garden River First Nation newsletter.
 - iii. The distribution of this by-law to Officers, including the Anishinabek Police Service.
 - iv. The posting of this by-law on the Garden River First Nation internet page.

SECTION 13

13. AMENDMENTS

- a. This by-law may be amended by a quorum of Council at a duly convened meeting of Council.

SECTION 14

14. COMPLIANCE WITH OTHER LAWS

- a. Notwithstanding anything in this by-law, all other applicable Provincial and Federal legislature related to any law shall be enforced pursuant to this by-law.
- b. The offences created by this by-law are in addition to, and do not replace, any applicable provincial or federal offences.
- c. Where any applicable federal or provincial law, act, regulation, or other Garden River First Nation by-law applies to any matter covered by this by-law, compliance with this by-law will not relieve the person from also complying with the provisions of any other applicable law, act, regulation or by-law.
- d. The offences, enforcement and penalties, pursuant to Section 10 of this by-law, does not relieve a person from also complying with or being subject to enforcement measures and penalties under the provisions of any other applicable federal and provincial act, law or regulation.
- e. The offences, enforcement and penalties, pursuant to Section 10 of this by-law, are meant to be complementary to federal and provincial acts, regulations or laws, meant to prevent the spread of contagious and infectious diseases.