

**LITTLE RED RIVER CREE NATION**



Chronological No. <u>20201620</u>
File Reference No.

**CHIEF AND COUNCIL RESOLUTION**

				Cash Free Balance
Quorum consist of:	Six (6) Council Members			Capital Account \$ _____
Date of Duty Convened Meeting:	Month <u>12</u>	Day <u>16</u>	Year <u>20</u>	Province <u>AB</u>
				Revenue Account \$ _____

**DO HEREBY RESOLVE:**

**WHEREAS** the undersigned, being the duly elected Council for the Little Red River Cree Nation (the “Nation”) by way of election of a Chief and Councillors (collectively known as “Council”), each of whom have one vote and are empowered to vote on and act upon each Band Council Resolution (“BCR”) passed by simple majority, on behalf of the Nation; and

**WHEREAS** Council having met in quorum at a duly convened meeting held by electronics means in order to comply with current requirements associated with the COVID-19 pandemic; and

**WHEREAS** in light of Alberta’s declaration of a State of Public Health Emergency on November 24, 2020, and given that there are now active COVID cases in the community;

**WHEREAS** Council has the authority to adopt Bylaws for the purposes set out in s.81 of the Indian Act, including to protect the health and safety of LRRCN Members;

**THEREFORE BE IT RESOLVED THAT:**

1. Council hereby adopts and declares in force and effect as of the date of its publication on the LRRCN Website the LRRCN COVID-19 Emergency Bylaw in the form appended to this BCR;
2. Council directs LRRCN administration to:
  - a. Publish the COVID-19 Emergency Bylaw on the First Nations Gazette as soon as possible;
  - b. Publish the COVID-19 Emergency Bylaw on the LRRCN Website not later than December 18, 2020;
  - c. Publish the COVID-19 Emergency Bylaw in conspicuous places around the Communities; and
  - d. To begin work with the EMT to distribute information on the bylaw, its provisions, the COVID-19 pandemic to the Members of LRRCN.

*Conroy Sewepagaham*

(Chief Conroy Sewepagaham)

*Carmen Alook*

(Councillor Carmen Alook)

*Keith Alook*

(Councillor Keith A. Alook)

*Delmer D'Or*

(Councillor Delmer D'Or)

*Henry Grandjambe*

(Councillor Henry Grandjambe)

*John M. Laboucan*

(Councillor John M. Laboucan)

*Leslie Joe Laboucan*

(Councillor Leslie Joe Laboucan)

*S Murphy Ribbonleg*

(Councillor S Murphy Ribbonleg)

*Alfred Seesequon*

(Councillor Alfred Seesequon)

*S Malcolm St. Arnault*

(Councillor S Malcolm St. Arnault)

(Councillor Willard Tallcree)

## **A BYLAW TO PROTECT LITTLE RED RIVER CREE NATION DURING THE COVID-19 EMERGENCY**

**WHEREAS** the Little Red River Cree Nation has exercised, and continues to exercise, an inherent right to self-government, which is recognized and affirmed by section 35 of the *Constitution Act, 1982*, including its authority to place its Laws in writing and enforce them within Reserve Lands;

**WHEREAS** in addition to Little Red River Cree Nation's inherent right of self – government, Little Red River Cree Nation Council has authority under s.81 (1) of the *Indian Act* to pass Bylaws for various purposes, including:

- i.) Promotion, preservation and protection of the health of Members and Residents on Reserve Lands and to prevent the spread of contagious and infectious disease;
- ii.) Observance of law and order;
- iii.) Regulation of traffic;
- iv.) Prevention of disorderly conduct and nuisances;
- v.) the removal and punishment of persons trespassing on or frequenting Reserve Lands for prohibited purposes;
- vi.) the residence of Members and other persons on Reserve Lands;
- vii.) Penalties for violation of bylaws created for these purposes.

(collectively “Bylaw Purposes”)

**WHEREAS** COVID-19 is present in Alberta and constitutes a public health emergency as a novel or highly infectious agent that poses a significant risk to public health and which presents particular and unique risks to the health and welfare of the residents and members of Little Red River Cree Nation (“the COVID-19 emergency”);

**WHEREAS** Council of Little Red River Cree Nation declared a state of local emergency (“SOLE”) concerning the COVID-19 emergency on March 22, 2020, and the Province of Alberta declared the most recent State of Public Health Emergency on November 24, 2020, with additional measures announced on December 8, 2020 to control the spread of COVID-19 in Alberta;

**WHEREAS** Council of Little Red River Cree Nation wish to support and adopt all Alberta Public Health standards, Orders of the Chief Medical Officer of Alberta and orders issued by the Government of Canada in relation to the COVID-19 emergency and see the same enforced on Reserve Lands so long as they do not deny, detract from or abrogate Aboriginal or Treaty rights or operate in a manner inconsistent with Honour of the Crown;



**WHEREAS** there are unique conditions on the Reserve Lands, including the overcrowding of homes and unequal access to health care and other services, that result from factors including historical and systemic injustice and discrimination in relation to First Nations and Treaty peoples, from the failure of the Government of Canada and Alberta to honour their obligations, act in accordance with the Honour of the Crown and fully embrace reconciliation;

**WHEREAS** to meet the unique needs and interests of LRRCN, Council and the Emergency Management team must establish additional measures to address the COVID-19 emergency that may differ from Federal or Provincial Standards to more fully reflect the realities of the Community and our rights as a People.

## **1.0 SHORT TITLE**

1.1 This Bylaw may be cited as “The LRRCN COVID-19 Emergency Bylaw.”

## **2.0 INTERPRETATION**

2.1 In this Bylaw:

- a.) “Authorized Personnel” means individuals other than Members or Residents authorized by Council or the Officials to enter, exit, provide services or engage in other activities authorized by LRRCN within the Reserve Lands;
- b.) “Band Council Resolution” or “BCR” means the documented written decision approved by six or more members of Council made at a duly convened meeting of Council, whether held in person or by electronic means;
- c.) “Bylaw Enforcement Officer” means any person hired by LRRCN to carry out duties under, or enforce, this Bylaw or other LRRCN Laws;
- d.) “Council” means the duly elected Chief and Council of the Little Red River Cree Nation;
- e.) “CMOH Order” means Records of Decision, any order issued by the Chief Medical Officer of Health for Alberta or other mandatory requirements under the *Public Health Act*, RSA 2000, c.P-37 or Orders or other compulsory requirements issued by the Chief Public Health Officer of Canada, or both;
- f.) “Emergency Management Team” or “EMT” means the LRRCN Emergency Management Team, including Bylaw Enforcement Officers hired to carry out duties under this Bylaw, as it exists on the date this Bylaw is adopted or such other bodies or individuals as Council may appoint to the EMT from time to time;





- g.) “Communities” means the LRRCN communities known as Fox Lake, Garden River, and John D’Or Prairie;
- h.) “Director” or “Deputy Director” means the individual or individuals appointed by Council at the beginning of the SOLE to act as Emergency Management Director and Deputy Director or such other individuals as Council may appoint to those positions under this Bylaw from time to time;
- i.) “Essential Services” means:
- i.) Any services provided by first responders or the EMT whether in relation to flood, fire, other natural disasters, criminal activity, child welfare matters, or a medical emergency;
  - ii.) Services provided to Members or Residents who require home care or similar services;
  - iii.) All LRRCN programs and services approved by Council or the EMT as Essential Services;
  - iv.) Services required to provide food, water, household cleaning products or similar items;
  - v.) Traditional activities such as gathering that are necessary to provide a household with traditional medicine or sustenance;
  - vi.) Services required to provide plumbing, heating or other essential home repairs;
  - vii.) Services by Authorized Personnel approved by Council or the EMT as Essential Services;
  - viii.) Provision of fuel; and
  - ix.) Services similar to the above which are authorized as an Essential Service in a SOLE Notice;
- j.) “Essential Travel” means travel that is not prohibited by an existing SOLE Notice or Shut Down Order and may include:
- i.) Travel by a Member or Resident for the purposes of returning to their residence within the Communities;
  - ii.) Travel by a Member or Resident for medical purposes;



- iii.) Travel by individuals, businesses, government entities or organizations who are providing Essential Services;
  - iv.) Travel by Authorized Personnel;
  - v.) Travel by a Member or Resident in order to obtain Essential Services outside Reserve Lands; and
  - vi.) Any other travel authorized as Essential Travel in a SOLE Notice;
- k.) “LRRCN” means the Little Red River Cree Nation Band;
- l.) “Member” means any individual on the LRRCN Membership List;
- m.) “Officer” means any person who is an officer under the *Royal Canadian Mounted Police Act*, RSC 1985, c.R-10, the *Police Act*, RSA 2000, c.P-17, any person authorized to act to uphold laws or orders regarding public health and safety under the *Public Health Act*, RSA 2000, c.P-37 or the *Emergency Management Act*, RSA, c. E-6.8 or any Bylaw Enforcement Officer appointed under this Bylaw or any other LRRCN Law or Bylaw;
- n.) “Public Places” means: any structure or facility on the Reserve Lands, including Nation-owned housing and the yards around them, administration buildings, schools, playgrounds, sports fields, recreational facilities, outdoor gathering spaces or any other building or area under the jurisdiction of LRRCN;
- o.) “RCMP” means the Royal Canadian Mounted Police;
- p.) “Reserve Lands” means all those lands defined as a “Reserve” within the meaning of the *Indian Act*, RSC 1985 c.I-15, and set apart for the use and benefit of the Little Red River Cree Nation, including the Communities;
- q.) “Resident” means any individual who habitually resides within the Reserve Lands and is authorized by LRRCN to do so, but who is not a Member;
- r.) “Road” means any street, lane, driveway, path or other place used for the passage of motor vehicles, ATV’s, snowmobiles, bicycles or similar forms of transportation and located within the Reserve Lands;



s.) “Unauthorized Persons” means any individual:

- i.) who attempts to enter or enters the Reserve Lands for any purpose other than Essential Services or Essential Travel during a SOLE;
- ii.) who Council or the EMT have reasonable grounds to believe wishes to enter, or be present on, the Reserve Lands for any purpose or activity prohibited under the LRRCN Bylaw to Prohibit Sales of Illegal Drugs and Bootleg of Alcohol;
- iii.) whom Council or the EMT have reasonable grounds to believe is a threat to the health and safety of others on the Reserve Lands. Reasonable grounds will include refusals to follow CMOH’s and previous or ongoing violations of this Bylaw;
- iv.) who is not a Member, Resident or Authorized Person and yet is present on Reserve Lands; or
- v.) any other category of individuals declared Unauthorized Persons in SOLE Notice.

2.2 Where there is a conflict between the provisions of this Bylaw, a SOLE Notice or Shut Down Order and provisions of a CMOH, the provisions of this Bylaw and all notices or orders issued under it will govern on Reserve Lands;

2.3 This Bylaw shall be interpreted and applied in a manner consistent with the customs, traditions and values of LRRCN and nothing in this Bylaw will be construed or interpreted so as to deny, abrogate or derogate from any of the Aboriginal and Treaty rights of LRRCN or LRRCN Members.

### **3.0 PURPOSE AND APPLICATION**

3.1 The purposes of this Bylaw include:

- a.) Promotion of the Bylaw Purposes;
- b.) Limiting or preventing the spread of COVID-19 in the Communities and within the Reserve Lands;
- c.) Supporting the presence of Officers on Reserve, as necessary to enforce any provisions of CMOH Orders that properly apply on Reserve Lands and assist with enforcement of the provisions of this Bylaw;
- d.) Confirming that the SOLE within the Reserve Lands continues and that more restrictive measures are needed within Reserve Lands in light of the November 24, 2020 State of Public Health Emergency declared in Alberta;





- e.) Authorizing Council or the EMT to impose any restrictions or measures within the Reserve Lands that are necessary to fulfill the purposes of the Bylaw, listed above; and
  - f.) Creating and imposing penalties, including fines in situations where this Bylaw is breached.
- 3.2 This Bylaw applies on Reserve Lands, to all individuals present on Reserve Lands and to all businesses or commercial activities operating on Reserve Lands.
- 3.3 This Bylaw applies to housing on Reserve Lands. However, the systemic overcrowding in First Nations housing that arises from historical injustices and discrimination by the Government of Canada in relation to LRRCN and other First Nations peoples renders CMOH provisions on numbers of occupants per residence inapplicable, contrary to the Honour of the Crown and to government promises to move forward on reconciliation. This Bylaw and notices or orders issued under it will govern matters of residential occupancy on Reserve Lands.
- 3.4 Without limiting the generality of s.3.2, during a SOLE, all Members, Residents, Authorized Personnel, LRRCN employees and contractors, other individuals present on Reserve Lands and commercial ventures or corporations operating on Reserve Lands must comply with the provisions of this Bylaw and any SOLE Notices or Shut Down Orders issued under it or face the penalties provided for in Article 6 herein.
- 3.5 Breaches of this Bylaw may be considered by Council, the EMT or LRRCN administration in relation to making decisions on matters including:
- a.) Whether to cancel or renew authorizations issued under this Bylaw;
  - b.) Renewal, revocation or termination of Business Lease Agreements;
  - c.) Issuance or revocation of Business BCR's;
  - d.) Decisions on renewals, or awards of, contracts with LRRCN;
  - e.) Employee performance or disciplinary matters;
  - f.) Decisions regarding discretionary benefits and services to Members or Residents; and
  - g.) Any other LRRCN decisions where Council considers breaches to be a relevant consideration.

#### **4.0 STATE OF LOCAL EMERGENCY**

- 4.1 The current SOLE will remain in place until rescinded by BCR.
- 4.2 If the current SOLE is rescinded, the Council may declare a future SOLE by way of BCR.
- 4.3 During a SOLE, Council or the EMT may issue notices, orders directives, guidelines, or implement any other measures it determines appropriate ("SOLE Notices"), in its discretion, to ensure compliance with this Bylaw and with CMOH's to the extent appropriate within Reserve Lands.





- 4.4 During a SOLE, and upon confirmation of any COVID-19 cases within one of the Communities, Council or the EMT may issue a Shut Down Order for the affected Community for any period of time and on such terms, as they determine appropriate to ensure compliance with this Bylaw.
- 4.5 Subject to the terms of any SOLE Notice or Shut Down Order, LRRCN will use its best efforts to maintain Essential Travel and Essential Services during the SOLE.
- 4.6 SOLE Notices or Shut Down Orders may address matters, including:
- a.) Full lockdown measures including restrictions on Essential Travel and Services, the prohibition of travel between Communities, prohibition on interactions between households and on gatherings of any kind and any other reasonable measures necessary to limit the risk of spread of COVID-19;
  - b.) Terms and conditions under which Members, Residents, Authorized Personnel, LRRCN employees, or other individuals may enter and exit the Reserve Lands;
  - c.) Establishment of checkpoints to ensure compliance with this Bylaw on any Road or Public Place;
  - d.) Regulation of traffic within Reserve Lands and use of Roads;
  - e.) Restrictions on hours of operation, and manner of operation, of any business or commercial activity, operated or otherwise conducted within Reserve Lands;
  - f.) Regulation of Unauthorized Persons and trespassing on Reserve Lands, including denial of access to Reserve Lands, removal from Reserve Lands, or restrictions and conditions on access to Reserve Lands, for any period of time determined appropriate, up to and including the date the SOLE is rescinded;
  - g.) Restrictions on access to, and use of, any LRRCN owned building or facility, including Public Places;
  - h.) Curfews within Reserve Lands, for both minors and adults; and
  - i.) Measures needed to ensure compliance with applicable portions of the CMOH's and this Bylaw, including:
    - i.) Requirements to wear masks and similar personal protective equipment on Reserve Lands;
    - ii.) Requirements for self-isolation or quarantine prior to re-entering or entering the Reserve Lands or while on Reserve Lands;



- iii.) Restrictions and rules for any and all activities on Reserve Lands, including commercial activities, public or private social gatherings, religious gatherings, weddings, funeral, educational activities, or any other community, private, sporting and cultural events;
  - iv.) Requirements to maintain appropriate social distancing of 6 feet or more; and
  - v.) Any other similar measures determined appropriate by the Council or the EMT.
  - j.) Any other matter that may assist with achieving the purposes of s.3.1 of this Bylaw.
- 4.7 SOLE Notices and Shut Down Orders will be published on LRRCN’s website and posted in any LRRCN buildings or Public Places that remain accessible to the public, or alternatively posted in conspicuous locations within the Reserve Lands. All SOLE Notices issued after the adoption of this Bylaw will take effect on the date they are first published on the LRRCN website.
- 4.8 All notices, orders, directions or other measures announced or implemented by Council or the EMT between the March 24, 2020, SOLE BCR and the date of adoption of this Bylaw, and which also relate to the COVID-19 emergency, are hereby adopted and in force as if they are a SOLE Notices or Shut Down Orders issued under this Bylaw and, for purposes of enforcement, will take effect on the date this Bylaw is adopted.
- 4.9 During a SOLE, any meetings permitted or required under this Bylaw, any other LRRCN Band Council Resolution, Bylaw or Policy, the *Indian Act* or other legislation may be conducted by remote means, such as videoconference, teleconference, or other means and remain a validly held meeting.

**5.0 LRRCN EMERGENCY MANAGEMENT TEAM**

- 5.1 LRRCN may hire or appoint the following individuals, bodies and officials to exercise the powers under this Bylaw:
- a.) The LRRCN Emergency Management Committee;
  - b.) LRRCN Emergency Management Director;
  - c.) LRRCN Emergency Management Deputy Directors ;
  - d.) LRRCN Bylaw Enforcement Officer;
  - e.) Such further and other officials or bodies and Council determine appropriate or necessary to carry out the purposes of this Bylaw.

(all of the positions above to be collectively known as “the EMT”)

- 5.2 LRRCN may fill any vacancies that arise from time to time in the positions listed under s.5.1 in such manner as it determines appropriate.



- 5.3 Any powers granted to the EMT under this Bylaw are in addition to, and not a limitation of, any authority they may have under the *Emergency Management Act*, RSA 2000, E.-6-8 and any roles, powers, or other authority granted to them under the LRRCN Emergency Pandemic Response Plan, Community Emergency Management Program or similar LRRCN documents regarding community emergencies.
- 5.4 Bylaw Enforcement Officers may take any action authorized by Council, the EMT or as directed by a SOLE notice or Shut Down Order. Bylaw Enforcement Officers' duties and powers may also include:
- a.) Periodic patrols in each of the Communities;
  - b.) Stopping vehicles and individuals at checkpoints on Roads or in any Public Places for reasons including:
    - i.) To ensure travel or other activity is not contrary to terms of a Shut Down Order;
    - ii.) To confirm the individuals are travelling for Essential Travel or accessing Essential Services or otherwise have the necessary authorization under this Bylaw to travel;
    - iii.) To confirm individuals are not Unauthorized Persons;
    - iv.) To require individuals to maintain appropriate social distance, put on masks or other personal protective equipment, or similar measures;
    - v.) any other purpose that involves monitoring or confirming compliance with this Bylaw.
  - c.) Taking videos, photographs, recordings or otherwise documenting conduct and activities that violate applicable CMOH Orders, this Bylaw or both, which documentation may be used to prosecute offences under this Bylaw;
  - d.) Ordering any individual to disperse or cease any gathering or other activity on Public Lands or anywhere on Reserve Lands that breaches this Bylaw;
  - e.) Ordering Unauthorized Persons to leave Reserve Lands;
  - f.) Calling other Officers to request they attend on the Reserve Lands to make an arrest, lay a charge or otherwise assist in the enforcement of this Bylaw or other applicable laws;
  - g.) Receiving and investigating complaints about violations of this Bylaw from Members, Residents or other individuals present on the Reserve Lands;
  - h.) Issuing Violation Tickets under this Bylaw;





i.) Any other power, activity or duty assigned to them by Council or the EMT.

5.5 Council or the EMT may establish any application, permit or other authorization processes that will assist with the implementation or enforcement of this Bylaw.

5.6 Regardless of any other provision of this Bylaw, under no circumstances will Council or the EMT prevent individuals from entering or exiting the Reserve Lands where such entry or exit is required for a community emergency or natural disaster, law enforcement, child welfare, a medical emergency or similar purposes.

## 6.0 OFFENCES AND ENFORCEMENT

6.1 Any individual who breaches the provisions of this Bylaw, a SOLE Notice or a Shut Down Order commits an offence under this Bylaw.

6.2 Any person who interferes with any member of Council or the EMT exercising their power under this Bylaw or who refuses to comply with a SOLE Notice, Shut Down Order, or Violation Ticket issued under this Bylaw commits an offence under this Bylaw.

6.3 Without limiting s.6.1, any Unauthorized Person present on present on Reserve Lands is trespassing on Reserve Lands contrary to section 31 of the *Indian Act* and commits an offence under this Bylaw.

6.4 Council authorizes Officers to enter the Reserve Lands at any time to enforce and uphold applicable CMOH Orders, this Bylaw, or both, including by way of removal of Unauthorized Persons from Reserve Lands.

6.5 Persons in breach of this Bylaw commit an offence punishable on summary conviction by a fine not exceeding \$1000 or imprisonment for a term not exceeding 30 days or both, pursuant to s. 81(1)(r) of the *Indian Act*.

6.6 In addition to any authority Council or the EMT may establish by SOLE Notice to lay charges for breaches of this Bylaw, Bylaw Enforcement Officers may issue a Violation Ticket to any Member or Resident for a breach of this Bylaw.

6.7 Violation Tickets issued by the Bylaw Enforcement Officer may impose any reasonable sanction or penalty, including:

- a.) A verbal or written warning;
- b.) Fines, up to \$1000.00;
- c.) A prohibition on access to LRRCN Buildings, private residences (other than their own), or Public Places for a period of time not to exceed 14 days per violation;
- d.) A prohibition on entry or exit from the Reserve Lands for a specified period of time not to exceed 14 days per violation;





- e.) Removal from, or denial of entry to, Reserve Lands of Unauthorized Persons;
- f.) Any similar sanction or penalty that will assist in upholding the purposes set out in s.3.1 of this Bylaw.

6.8 Where a Violation Ticket imposes a fine, LRRCN may recover that amount, in total or in installments, from any discretionary funds owed to the individual who issued the Violation Ticket. Unpaid fines under this Bylaw constitute a debt owed to LRRCN for the purposes of all other LRRCN Laws, including the Election Code.

6.9 The offences created by this Bylaw are in addition to and do not replace any applicable provincial or federal violations.

6.10 Council will support Officers in the prosecution of offences under this Bylaw and may pursue private prosecution or Court ordered enforcement of the provisions of this Bylaw, including orders restraining contravention of this Bylaw or removals of Unauthorized Persons, as it determines is appropriate.

## **7.0 GENERAL**

7.1 Upon enacting this Bylaw, Council will publish the Bylaw on the LRRCN website, in the First Nations Gazette and by posting a copy of the Bylaw inconspicuous locations on the Reserve Lands. The Bylaw will remain on the LRRCN website so long as it remains in force.

7.2 No member of Council, an Official, LRRCN employees, agents or representatives of LRRCN or Council are liable for:

- a.) loss or damage caused by anything said or done or omitted to be done in good faith in the performance or intended performance of their functions, duties or powers under this Bylaw;
- b.) any loss or damage, including economic loss, experienced by any person, or sustained by the property of any person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Bylaw; or
- c.) from the neglect or failure, for any reason, to enforce this Bylaw.

7.3 Should a Court determined that any provision of this Bylaw is invalid for any reason, the provision shall be severed from the Bylaw, and the validity of the rest of the Bylaw shall not be impacted.

7.4 This Bylaw may be amended by Band Council Resolution. All amendments will be published on the LRRCN website and will be effective as the date of the publication.

