

Flying Dust First Nation
By-law No. 2020-01
Curfew Bylaw
Enacted on the 11th day of May, 2020

WHEREAS paragraphs 81(1)(c), (d), (q) and (r) of the Indian Act, R.S.C., ch.I-5, empowers the Council of a Band to make by-laws for the observance of law and order, the prevention of disorderly conduct, matters ancillary thereto, and a penalty for the violation thereof;

AND WHEREAS the Council of the Flying Dust First Nation is of the opinion that children should not remain unattended and without adult supervision in public places during the evenings, for the welfare and safety of the youth and also for the Reserve community;

THEREFORE, the Council of the Flying Dust First Nation enacts this by-law as follows:

Short Title

1. This by-law may be cited as the “Curfew By-law”.

Definitions

2. In this by-law
 - a. “*child*” means any person who is under the age of majority (18 years);
 - b. “*community social event*” means a wedding, sports event, religious celebration or other community event recognized by the Council of the Band;
 - c. “*Council*” means the Council of the Flying Dust First Nation;
 - d. “*Flying Dust Health Department*” means the health department of the Flying Dust First Nation.
 - e. “*parent*” means a father, mother, guardian or person having the custody or care, in law or in fact of a child.
 - f. “*peace officer*” means a peace officer as defined in section 2 of the Criminal Code, R.S.C and for the purpose of this bylaw includes the Flying Dust Community Safety Officer.
 - g. “*prohibited hours*” means the period of time when a child is prohibited from being unaccompanied in a public place as follows:

11:00 PM to 6:00 AM on Weekdays and Weekends
 - h. “*public place*” means any place to which the public have access as of right or by invitation, express or implied and includes without limiting the generality of the foregoing, the highways, streets, walking path, public parks, sporting facilities, and any business enterprise on the Flying Dust First Nation.

Prohibition

3. No parent shall permit their child to be in any public place during the prohibited hours unless such child:
 - a. Is accompanied by a parent or a person who is 18 years of age or older and has the authorization of that child’s parent;
 - b. Is attending or is directly returning home from a community social event; or
 - c. Is authorized by a resolution of Council.

Powers of the Peace Officer

4. A Peace Officer who finds a child who is, or in the absence of evidence to the contrary, appears to be under the age of eighteen (18) years, in a public place on the reserve during the prohibited hours may:
 - a. Require the child to produce identification
 - b. Warn such child to immediately return to the child's residence and, if after said warning, the child neglects to return to his or her residence forthwith, the Peace Officer may use such reasonable force as necessary to escort such child to the child's residence and the care of the child's parent(s); or
 - c. If the parent(s) cannot be found, escort the child to an emergency response worker with the Flying Dust Health Department.

Notification of Parents

5. A Peace Officer who finds a child in a public place during prohibited hours shall verbally or in writing notify the child's parent(s) that the child was in breach of curfew, and shall advise of the time and place the breach was observed.
6. A Peace Officer who finds a child in a public place during prohibited hours, for a second and or subsequent time within a 30 day period for the first breach of curfew, shall serve a written notice on the child's parent(s) containing the following information:
 - a. The time and place of the breach;
 - b. The time and place of the previous breach
 - c. A recommendation that the child be more closely supervised;
 - d. A listing of contact information of the Flying Dust Health Department and the Family Support Workers;
 - e. Information as to potential consequences for breach of this Bylaw.

Copies of the written notice shall be forwarded to the Director of Health for the Flying Dust Health Department serving the Band.

7. A Peace Officer who finds a child in a public place for a third and or subsequent time within a 30 day period of the second breach, shall provide a written notice to the child's parent(s) containing the information set out in Section 6 hereof, and shall request that a representative of the Flying Dust Health Department interview the child and his or her parent(s) to determine if they require advice, assistance or intervention.

Meeting with Parents

8. The Council may, by way of resolution, direct any parent(s) who have received 2 or more notices, as set out in sections 6 and 7 hereof, to meet and discuss the situation with the Flying Dust Health Department. A referral may be made for further intervention with the Child and Family Services Agency.

Enforcement of Bylaw

9. Every individual shall comply with this Bylaw and with Council resolutions enacted pursuant to this By-law.

Power to Alter Curfew

10. Notwithstanding any other provision in this Bylaw, the Council may, by way of resolution, alter or suspend the hours of the curfew for any designated day or days.

Waiver


11. Where a child by reason of employment or family obligations, or other reasons which the Peace Officer deems good and sufficient, is required to likely attend public places on the Reserves during prohibited hours, then the Peace Officer may issue a permit of waiver exempting the child from the By-law on such terms and conditions as the Peace Officer may deem appropriate.

Severability


12. In the event that a court of competent jurisdiction or any other body with jurisdiction determines that any provision herein is unlawful or beyond the jurisdiction of the Council, said provision shall be severable from this Bylaw and the remainder of the terms of this Bylaw and any resolutions enacted under this Bylaw shall remain full in force and effects

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Flying Dust First Nation this 11th day of May, 2020.


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



Chief Jeremy Norman



Councillor Tyson Bear



Councillor Marie Gladue



Councillor Connie Derocher