

Chronological no.	777	450 0011	2021
File reference no.			



BAND COUNCIL RESOLUTION

The Council of the: DRIFTPILE CREE NATION		Cash Free Balance
		Capital account \$ _____
Date of Meeting (YYYY-MM-DD) 2021-05-18	In the Province of: ALBERTA	Revenue account \$ _____

DO HEREBY RESOLVE:

WHEREAS the Chief and Council of Driftpile Cree Nation met at a duly convened meeting on the above date, and;

WHEREAS, the Chief and Council of Driftpile Cree Nation are empowered to act on behalf of its' Membership, and;

WHEREAS, a quorum of council has declared that an Emergency exists in Driftpile Cree Nation as a result of the pandemic spread of COVID 19, and;

WHEREAS, the Chief and Council wish to enact and enforce a bylaw in respect of a Pandemic Response for the health and safety of the Nation, its Members, and its residents in accordance with the *Indian Act* R.S.C., 1985, c 1-5,. More specifically **Section 81** (1)(a), (b), (c), (d), (r), and

THEREFORE, BE IT RESOLVED, That the Chief and Council of Driftpile Cree Nation hereby enacts the following DRIFTPILE CREE NATION PANDEMIC RESPONSE BYLAW 001-2021; and

THEREFORE, BE IT FURTHER RESOLVED, That the Chief and Council of the Driftpile Cree Nation hereby declare that the **Community Shielding Plan**, which may be revised from time to time as necessary, shall take precedence over any Provincial or Federal statutes.

Quorum 6 (Six)

Chief Dwayne Laboucan

Councillor Terry Giroux

Councillor Yvonne Henry

Councillor Stanley Isadore

Councillor Starr Sasakamoose

Councillor Napoleon Collins

Councillor Jonathan Giroux

Councillor Caroline Isadore

Councillor Derrick Laboucan

Councillor James Ward



DRIFTPILE CREE NATION
PANEDEMIC RESPONSE BYLAW 001-2021
May XX, 2021

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PART 1 – TITLE AND DEFINITIONS

Short Title

1. This bylaw may be cited as the "DRIFTPILE CREE NATION PANDEMIC RESPONSE BYLAW 001-2021".

Definitions

2. In this bylaw:
 - a. "**DRIFTPILE CREE NATION**" or "**Driftpile**" shall mean Driftpile Cree Nation;
 - b. "**Child**" means a person who is minor under the age of 12;
 - c. "**Council**" means the Chief and Council of Driftpile Cree Nation;
 - d. "**Council Designate**" means the individual(s) identified as the supervisor(s) of security and monitoring personnel;
 - e. "**Curfew Hours**" means the hours of prohibition as set out by Section 3.c;
 - f. "**EPHO**" means Environmental Public Health Officer
 - g. "**Essential**" means people who are essential to maintain the government, public works, emergency services and law and order, that includes Security Personnel RCMP, Ambulance, Fire Department, and Bylaw Enforcement;
 - h. "**Face Mask**" means a medical or non-medical mask or other face covering that fully covers the nose, mouth, and chin;
 - i. "**Health Authorities**" shall include the MOH, EPHO, PHO, and/or the DCN Health Director;
 - j. "**Local Business**" means any business that operates within the DRIFTPILE CREE NATION Reserve boundaries;

- k. **“Legitimate Reason”** means the following;
 - i. Traveling directly to and from place of work;
 - ii. Essential Service;
 - iii. Essential Employee; or
 - iv. Emergency.
- l. **“LSRPS”** means Lakeshore Regional Police Services
- m. **“Mass Gathering”** means a large group of people attending funerals, weddings, or any other gatherings in any of the public or private places on any Driftpile Cree Lands;
- n. **“MOH”** means Medical Officer of Health
- o. **“Officer”** means RCMP, Peace Officer, Special Constable, or any Bylaw Officer;
- p. **“Parent or Guardian”** means the person(s) who are in direct care of a child or youth;
- q. **“PHO”** means Public Health Officer
- r. **“Public Place”** means any place or area within Driftpile Cree Nation Reserve land that is privately or publicly owned or leased, to which the public have access as a right or by initiation, express or implied;
- s. **“RCMP”** means Royal Canadian Mounted Police
- t. **“Reserve”** means the DRIFTPILE CREE NATION reserve #450 and any other land governed by DRIFTPILE CREE NATION;
- u. **“Road Monitoring”** means manned checkpoints at any point of entry and exit of the DRIFTPILE CREE NATION;
- v. **“Security Personnel”** means individuals hired by the Driftpile Cree Nation to enforce local bylaws, monitor roads and access points;
- w. **“Self-Isolate”** means to stay home for a term of fourteen (14) consecutive days, this includes everyone within the same household, upon arrival of returning from outside of the Province of Alberta; or upon being declared a close contact of a positive COVID-19 case by a public health official;
- x. **“SOLE” or “State of Local Emergency”** means when an emergency is imminent or occurring and the Chief and Council have declared that the local authority may issue an order to any party to do everything necessary to prevent or limit loss of life and damage to property or the environment.
- y. **“Treaty Entitlement lands”** are any Reserve or Nation owned lands
- z. **“Violator”** means any person who does not have a legitimate reason to be in a public place during Curfew Hours;
- aa. **“Violation ticket”** means a ticket issued to a Violator pursuant to Section 6 of this bylaw;
- bb. **“Youth”** means a person who is a minor between the ages of thirteen (13) and seventeen (17) years old.

3. CURFEW

Council Hereby authorizes the following;

- a. The Council enacts a Curfew within all Driftpile Cree Nation Reserve and Nation owned lands governed by Driftpile Cree Nation and is liable for enforcement;
- b. The Curfew Hours as set by Quorum of Council are between the hours of **11:00 pm and 6:00 am**, local time;

- c. The Curfew is to remain in effect until Chief and Council lift the Curfew or until the State of Local Emergency is no longer in effect;
- d. The hours of prohibition shall be posted to the membership and public no later than the morning following when they take effect or are lifted;
- e. Mass gatherings restrictions will be set by Quorum of council based on the recommendation of the EPHO, and shall be posted immediately no later than the following morning;
- f. Procure on a first priority basis any clothing, equipment medical supplies, or any other essential supplies required to cope with the emergency, for the duration of the emergency;
- g. Local businesses in any emergency are prohibited from engaging in price increases and is liable for enforcement;
- h. Local Businesses are to restrict occupancy in accordance with Alberta's Public Health Measures unless otherwise changed by written Chief and Council directive;
- i. Local Businesses are to close no later than thirty (30) minutes prior to local Curfew unless otherwise changed by written Chief and Council directive.
- j. Public places and facilities may be closed at the discretion of the Chief and Council during the pandemic response;
- k. Failure to adhere to social distancing practice/protocols is liable for enforcement;
- l. Failure to abide by public health orders is liable for enforcement;
- m. Emergency essential service personnel and law-enforcement personnel are excluded from this bylaw;
- n. Failure to self-isolate upon return from out of province is liable for enforcement;
- o. That it is at the discretion of the RCMP Officer, LSRPS Officer, Bylaw Officer and Peace Officers to issue violation tickets under section 5, part 3 - Offences of this bylaw;

4. FACEMASKS

Council hereby authorizes the mandatory wearing of a face mask that covers the nose, mouth, and chin in the following areas;

- a. Public places;
- b. Local businesses; and
- c. Gatherings of any size.

5. EXEMPTIONS

Council hereby authorizes the exemption of facemasks to the following;

- a. Persons under the age of two (2);
- b. Persons who are clearly unable to place or remove a face mask without assistance;
- c. Persons who are unable to wear a face mask due to mental or physical limitations, or protected under the Canadian Human Rights Act or Alberta Human Rights Act, where applicable;
- d. Persons consuming drinks or food in designated seating areas;
- e. Persons taking part in religious or spiritual ceremonies wear a face mask would limit or impede religious and/or spiritual ceremony;
- f. Persons engaged in water activities;
- g. Persons engaged in individual physical exercise;
- h. Persons providing care for assistance to a person with a disability where the mask would hinder the caregiver;

- i. Persons engaged in a service that requires the temporary removal of a face mask;
- j. Schools and other educational places and facilities, while seated;
- k. Children attending Childcare facilities;
- l. Areas exclusively accessed or used by Nation employees or public transport operators, provided that there are physical barriers in place and physical distancing is implemented between the operator; and any person not required to wear a face mask as per Section 5 of this bylaw.

6. PART 2 – AUTHORITY

This Driftpile Cree Nation Pandemic Response Bylaw shall come into effect as of the date of the Band Council Resolution and pursuant to the terms of Section 12 hereof, and shall remain in effect until such time as the pandemic is deemed over in the Province of Alberta, as determined by Council of the Nation in consultation with any and all applicable health authorities, both federal and provincial.

- a. The Chief and Council of Driftpile Cree Nation, empowered by virtue of Section 81 of the *Indian Act* R.S.C. 1985. C. 1-5, and in exercise of their own inherent, Indigenous and Treaty Rights, enact this bylaw for the following intents and purposes;
 - i. To provide for the health of residents on the Reserve and to prevent the spreading of contagious and infectious diseases;
 - ii. The regulation of traffic;
 - iii. The observance of law and order;
 - iv. The prevention of disorderly conduct and nuisances;
 - v. The imposition on summary conviction of a fine not exceeding one thousand dollars (\$1000.00) or imprisonment for a term not exceeding thirty (30) days, or both, for violation of a bylaw made under this section.

7. PART 3 – MONITORS & DRIFTPILE CREE NATION SECURITY PERSONNEL

The Driftpile Cree Nation Pandemic Response Bylaw makes provision for personnel authorized by Chief and Council or their Council designate, to patrol the Nation and Nation owned lands for the following purposes;

- a. Be clearly visible so as to prevent and deter violations of this bylaw;
- b. Be vigilant in assessing hazardous or dangerous situations and conveying to the Bylaw Officer, Peace Officer, LSRPS, or RCMP of the situation;
- c. Observe and report daily or as need arises, to the Council Designate, Bylaw Officer, Peace Officer, LSRPS, or RCMP;
- d. Maintain order, this may mean being present at gatherings or places of business.

8. PART 4 – OFFENCES

- a. A Bylaw Officer, Peace Officer, LSRPS Officer, or RCMP Officer, as the case may be, are hereby authorized and empowered to issue a Violation Ticket in accordance with the Provincial Offences Procedure Act (Alberta) to any person whom the Officer have reasonable grounds to believe has contravened any provision of this bylaw.
- b. A person who fails to comply with any provision of this bylaw is guilty of an offence and is liable, upon summary conviction, to the fine specified in section 6 of this bylaw and in default of payment, to imprisonment for up to Thirty (30) days;

- c. If the violation ticket is issued in respect of an offense, as set out in Section 9 herein, the Violation Ticket may:
- i. Specify the amount established by this bylaw for the offense, or
 - ii. Require a person to appear in court without the alternative of making a voluntary payment.
- d. A person who commits an offence may:
- i. If a violation ticket is issued in respect of the offense, and;
 - ii. If the violation ticket specifies the fine amount established by this bylaw for the offense, make a voluntary payment equal to the specified fine by this bylaw by delivering the Violation Ticket and the specified fine to the provincial court.
- e. When a clerk records in the court records the receipt of a voluntary payment pursuant to this bylaw and the Provincial Offences Procedure Act, the act of recording receipt of that payment constitutes acceptance of the guilty plea and also constitutes a conviction and the imposition of a fine in the amount of the specified penalty.
- f. Notwithstanding the penalties established in Section 6 of this bylaw, the Driftpile Cree Nation may take any actions necessary to enforce this bylaw including, but not limited to, the suspension, or revocation of a business license and/or Driftpile Cree Nation Band Council Resolution, or any other legal action required to bring about compliance with this bylaw.
- g. If an Officer finds a child or youth during Curfew Hours, the Officer may call local child protective services, if the Officer determines the child or the youth is in need of protective services in accordance with the Child, Youth and Family Enhancement Act of the Province of Alberta (Appendix A).

9. PENALTY

- a. Any person who fails to comply or adhere with an order made pursuant to this bylaw, or resists or interferes with an Officer acting pursuant to this bylaw, commits an offence.
- b. A person who commits an offence under this bylaw is liable on summary conviction to a fine set out in the schedule "A" and/or including;
 - i. A maximum of one thousand dollars (\$1000.00), or imprisonment for a term not exceeding thirty (30) days, or both.
- c. All fines are to be paid to the Provincial Court; fine amounts shall not be paid to any individual.

10. INTERPRETATION

- a. If any part of this bylaw is found by the Court to be ineffective or inoperative by rule of law, that part shall be severed from this bylaw in order to preserve the intent of the whole bylaw;
- b. Words in this bylaw that would normally imply singularity of male or female gender should be interpreted as including the singular and the plural and the masculine and feminine where the context requires.
- c. This bylaw shall respect the customs, culture and traditions valued by Driftpile Cree Nation.
- d. Nothing in this bylaw shall be construed or interpreted in a manner so as to deny, abrogate or derogate any person from any of their Aboriginal or Treaty rights.

e. Schedule "A" forms a part of this bylaw.

11. AMENDMENT

a. The Chief and Council of Driftpile Cree Nation may from time to time as deemed necessary by Chief and Council, amend this Pandemic Response Bylaw by way of Council Resolution.

12. ENACTMENT

a. This Pandemic Response Bylaw has come into force and effect as per Section 86 of the *Indian Act* R.S.C. 1985. C. 1-5.

This Bylaw is consented to by the following members of Council through the following motion;

LET IT BE KNOWN THAT THIS BYLAW ENTITLED DRIFTPILE CREE NATION PANDEMIC RESPONSE BYLAW, IS HEREBY ENACTED AS BYLAW NO. 001-2021 BY THE CHIEF AND COUNCIL OF DRIFTPILE CREE NATION AT A DULY CONVENED MEETING OF THE SAID COUNCIL HELD ON THE _____ DAY OF MAY 2021.

Dwayne Laboucan – Chief

Terry Giroux – Councillor

Yvonne Henry – Councillor

Stanley Isadore – Councillor

Starr Sasakamoose – Councillor

Napoleon Collins – Councillor

Jonathan Giroux – Councillor

Caroline Isadore – Councillor

Derrick Laboucan – Councillor

James Ward – Councillor

The Quorum of Council is **6 (six)** members.

I, **Chief Dwayne Laboucan**, of the Driftpile Cree Nation, do hereby certify that a true copy of the foregoing bylaw was forwarded to the Minister of Indigenous Services Canada and to the First Nations Gazette on this _____ day of _____, 2021.

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)

Signature of Authorized Official

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)

Print Name of Authorized Official

)

Signature of Witness

"As long as the Sun Shines, the Grass Grows, the Rivers Flow and until such as time as Yidah should reverse"

SCHEDULE A

A person who fails to comply with any provision of the “DRIFTPILE CREE NATION PANDEMIC RESPONSE BYLAW 001-2021” is guilty of an offense and is liable, upon summary conviction, to the fine specified in the table below:

PENALTIES	SECTION	FINE
Failure to wear face mask properly	Section 4. (a), (b), (c)	One Hundred Dollars \$100.00
Failure to abide by curfew	Section 3. (b), (c)	Five Hundred Dollars \$500.00
Failure to adhere to social distancing practices / protocols	Section 3. (h)	Five Hundred Dollars \$500.00
Failure to self-isolate	Section 3. (l)	One Thousand Dollars \$1,000.00
Failure to adhere to mass gatherings restrictions	Section 3. (e)	Five Hundred Dollars \$500.00
Engaging in price increases	Section 3. (g)	Five Hundred Dollars \$500.00
Failure to abide by occupancy restrictions	Section 3. (h)	Five Hundred Dollars \$500.00
Failure to adhere to Public Health Orders	Section 3. (l)	Five Hundred Dollars \$500.00

APPENDIX A

CHILD, YOUTH AND FAMILY ENHANCEMENT ACT

Of the Province of Alberta

Revised Statutes of Alberta 2000 Chapter C-12

Current as of January 1, 2021

(2) For the purposes of this Act, a child is in need of intervention if there are reasonable and probable grounds to believe that the safety, security or development of the child is endangered because of any of the following:

- (a) the child has been abandoned or lost;
- (b) the guardian of the child is dead and the child has no other guardian;
- (c) the child is neglected by the guardian;
- (d) the child has been or there is substantial risk that the child will be physically injured or sexually abused by the guardian of the child;
- (e) the guardian of the child is unable or unwilling to protect the child from physical injury or sexual abuse;
- (f) the child has been emotionally injured by the guardian of the child;
- (g) the guardian of the child is unable or unwilling to protect the child from emotional injury;
- (h) the guardian of the child has subjected the child to or is unable or unwilling to protect the child from cruel and unusual treatment or punishment.

(2.1) For the purposes of subsection (2)(c), a child is neglected if the guardian

- (a) is unable or unwilling to provide the child with the necessities of life,
- (b) is unable or unwilling to obtain for the child, or to permit the child to receive, essential medical, surgical or other remedial treatment that is necessary for the health or well-being of the child, or
- (c) is unable or unwilling to provide the child with adequate care or supervision.

(3) For the purposes of this Act, (a) a child is emotionally injured

- (i) if there is impairment of the child's mental or emotional functioning or development, and
- (ii) if there are reasonable and probable grounds to believe that the emotional injury is the result of
 - (A) rejection,
 - (A.1) emotional, social, cognitive or physiological neglect,
 - (B) deprivation of affection or cognitive stimulation,
 - (C) exposure to family violence or severe domestic disharmony,
 - (D) inappropriate criticism, threats, humiliation, accusations or expectations of or toward the child,
 - (E) the mental or emotional condition of the guardian of the child or of anyone living in the same residence as the child;
 - (F) chronic alcohol or drug abuse by the guardian or by anyone living in the same residence as the child;

(b) a child is physically injured if there is substantial and observable injury to any part of the child's body as a result of the non-accidental application of force or an agent to the child's body that is evidenced by a laceration, a contusion, an abrasion, a scar, a fracture or other bony injury, a dislocation, a sprain, hemorrhaging, the rupture of viscus, a burn, a scald, frostbite, the loss or alteration of consciousness or physiological functioning or the loss of hair or teeth;

(c) a child is sexually abused if the child is inappropriately exposed or subjected to sexual contact, activity or behaviour including prostitution related activities.