



NORWAY HOUSE CREE NATION

CHIEF & COUNCIL

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WHEREAS the Chief and Council (the “Council”) of the Norway House Cree Nation (“NHCN”) have an obligation to ensure the safety of its Band Members and residents, particularly children, the elderly and other vulnerable Band Members and to ensure that the remote location of its Reserve (the “Reserve”) is managed in a way that maximizes the protection of its Band Members and residents, particularly children and other vulnerable Band Members.

AND WHEREAS the Council is in the best position to evaluate the safety and health of its Band Members on its Reserve and can fulfill their obligation to ensure the observance of law and order, given their experience and expertise.

AND WHEREAS at membership meetings, the Band Members of the NHCN asked Council to deal with negative social issues that are occurring on Reserve, such as, but not limited to public intoxication, increased driving under the influence of intoxicants, assaults, violence amongst Band Members, increased drug use and dealing drugs and bootlegging.

AND WHEREAS in light of the negative social issues that continue to plague the NHCN First Nation, the Band Members requested and support a bylaw which would allow the Council to regulate who can and cannot be on Reserve and to remove and prohibit people, including Band Members, from residing or entering onto NHCN Reserves, if they pose a threat to the Band Members, the First Nation, children or other vulnerable Band Members.

AND WHEREAS the Council, in accordance with tradition, recognizes the importance of the collective rights of the NHCN community and the priority of those collective rights over certain rights of the individual.

AND WHEREAS the Council have the inherent authority, protected and confirmed in Treaty 5, to govern its own affairs, including with respect to who may or may not enter their Reserves, and further, the practice of banishment has been part of NHCN traditional customary law as a remedy for dealing with individuals who are a threat to Band Members or the NHCN community.

AND WHEREAS Sections 81 (a), (c), (d), (p), (p.1), (q) and (r) of the Indian Act empower the Council to pass bylaws to provide for the health and safety of residents on the reserve, the observance of law and order, the prevention of disorderly conduct and nuisances, the removal and punishment of persons trespassing on reserve or frequenting the reserve for prohibited purposes, the residence of Band Members and other persons on the Reserve, and the imposition of a penalty for the violation of any such bylaw.

AND WHEREAS this Bylaw balances the rights of the individual guaranteed under the Canadian Charter of Rights and Freedoms and the Canadian Human Rights Code with the safety of the Band Members, the NHCN community, its children and the vulnerable Band Members.

AND WHEREAS the Council intends to ensure that Band Members can live on Reserve in relative safety and are committed to implementing measures to safeguard against acts or threats of acts that may cause harm diminishing safety including, sexual offences, violent offences, harassment, and trafficking of narcotics and illicit substances on the Reserve.

Therefore, Be It Resolved that the Chief and Council of the Norway House Cree Nation hereby approve the following Bylaw:

1. NAME

This Bylaw may be cited as the **“Norway House Cree Nation No. 278 Community Protection Bylaw”**.

2. PURPOSE

The purpose of this Bylaw is to address disruptive, destructive, dangerous or threatening behaviour or conduct on NHCN reserve lands in order to promote community safety.

3. DEFINITIONS

a. For the purposes of this Bylaw, the following definitions apply:

- i. **“Appeals Tribunal”** means the Appeals Tribunal appointed by Council pursuant to Section 14 of this Bylaw to consider an appeal of a Removal Order.
- ii. **“Band Member”** means a person whose name appears on the NHCN membership list.

- iii. **"BCR"** means the documented written resolution made by a majority of Council at a duly convened meeting of Council.
- iv. **"Controlled Drugs and Substances Act"** means the Controlled Drugs and Substances Act, S.C. 1996, c. 19, as amended or replaced from time to time.
- v. **"Court"** means any federal or provincial court of competent jurisdiction.
- vi. **"Council"** means the Chief and Council of the NHCN.
- vii. **"Criminal Code"** means the Criminal Code, R.S.C. 1985, c. C-46, as amended or replaced from time to time.
- viii. **"Designated Individual"** means a person who has been determined to be a Designated Individual by Council under Section 10 of this Bylaw.
- ix. **"Enforcement Officer"** means any RCMP officer, police officer, police constable, peace officer, NHCN Safety Director, Bylaw enforcement officer or any other person charged with the duty to preserve and maintain the peace and appointed by Council for the purposes of maintaining law and order.
- x. **"Indian Act"** means the Indian Act, R.S.C. 1985, c. I-5, as amended or replaced from time to time.
- xi. **"Illegal Activities"** means action(s) of violence in violation of a law where there is injury to another person(s), especially in which a serious one that is punishable by imprisonment; unlawful activities which include but not limited to forcible entry and detainer, gang activity, drug dealing, bootlegging, harboring those who are involved in illegal activities, stealing; in general any activity in violation of federal, provincial or NHCN law.
- xii. **"Immediate Family"** means mother, father, spouse, brother/sister, grandparents, children and any other relative residing in the same residence.
- xiii. **"Indictable Offence"** includes a hybrid offense that proceeded by way of summary conviction.

- xiv. **“Intoxicant Bylaw”** means the NHCN Intoxicant Bylaw, 2017-01.
- xv. **“Intoxicant”** includes any substance, liquid or the vapors which can be used to produce a state of intoxication, and includes, without limiting the foregoing:
1. alcohol, alcoholic, spirits (including vodka, rum, whiskey, etc.), vinous (wine), beer, fermented malt or other intoxicating liquor or combination of liquors and mixed liquors a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks, drinkable liquids, preparations or mixtures capable of human consumption that are intoxicating;
 2. any homemade mixtures capable of producing a state of intoxication;
 3. marijuana, hashish, or other cannabis preparations or derivatives;
 4. a controlled substance as defined in the Controlled Drugs and Substances Act including but not limited to cocaine, crack cocaine, magic mushrooms and heroin; and
 5. prescription drugs regulated under the Canadian Food and Drugs Act unless used or possessed without a valid prescription.
- xvi. **“NHCN”** means Norway House Cree Nation.
- xvii. **“NHCN Safety Director”** means the person appointed by NHCN as the Director of Policing and Public Safety.
- xviii. **“Person of Interest”** means a person identified by the Council as a Person of Interest under Section 9 of this Bylaw.
- xix. **“Removal Order”** means a decision made by the Council under Section 12 of this Bylaw to prohibit a person from residing or being on Reserve and including evicting one, more than one or all occupants from a house or building.
- xx. **“Reserve”** means lands reserved for NHCN within the meaning of the Indian Act.

- xxi. **“Restorative Justice Authority”** means a local justice committee whose mandate is to:
1. implement cultural and traditional/universal teachings, customs and practices into all restorative justice programming;
 2. engage, protect and support NHCN elderly or youth;
 3. advocate for fair and equal treatment of all Band Members within the justice system;
 4. develop and implement programming that addresses the underlying causes for offending behavior;
 5. advocate for legislative and policy changes that promote restorative justice approaches for Band Members and the entire First Nation; and
 6. advocate for a Cree-based Justice System.
- xxii. **“Restraining Order”** mean an order made by Council under Section 11 of this Bylaw to prohibit a person from residing or being on Reserve;
- xxiii. **“Trafficking”** means trafficking a narcotic or controlled substance as set out in section 5 and Schedules I to V of the Controlled Drug and Substance Act; and
- xxiv. **“Violent Offence”** constitutes a broad category of criminal actions, including but not restricted to involvement in “Illegal Activities”, criminal harassment, assault, assault with a weapon, sexual assault, arson, manslaughter, murder, the unlawful abduction of a child. This definition is designed to incorporate a wide spectrum of aggressive and harmful behaviors.

4. INTERPRETATION

- a. The headings of parts and sections in this Bylaw have been inserted as a matter of convenience and for reference only and in no way define or limit any of its provisions.

- b. In the event that all or any part of any section or sections of this Bylaw are found by a Court to be invalid, such sections shall be severable, and the remaining portions or sections shall remain in full force and effect.
- c. Unless the context otherwise clearly indicates, words used in the singular include the plural, the plural includes the singular, and the neuter gender includes the masculine and the feminine.

5. PUBLICATION OF BYLAW

Upon the coming into force or any amendments of this Bylaw, Council shall:

- a. cause this Bylaw to be published in the First Nation Gazette; and
- b. post the Bylaw on the NHCN Website; and
- c. post this Bylaw in a public area on the Reserve, including in the NHCN Administration Building, multiplex, child and family service building, airport, and NS health centre.
 - i. Included with the Bylaw will be a notice containing:
 - 1. the date that this Bylaw came into force; and
 - 2. a summary of this Bylaw.

6. APPLICATION OF BYLAW

This Bylaw applies to the Reserve, Band Members and non-Band Members who are present on Reserve.

7. COMPLIANCE WITH OTHER LAWS

Where any applicable federal or provincial law, act, regulation, or NHCN bylaw applies to any matter covered by this Bylaw, compliance with this Bylaw will not relieve the person from also complying with the provisions of any other applicable law, act, regulation, or bylaw.

8. APPOINTMENT OF NHCN SAFETY DIRECTOR

- a. Council shall, by BCR, appoint one or more persons to carry out the duties of the NHCN Safety Director as set out in this Bylaw.

- b. An Enforcement Officer may be appointed as the NHCN Safety Director.
- c. The council must ensure that the NHCN Safety Director is sufficiently qualified and trained to carry out the role, activities and enforcement requirements under this Bylaw.

9. **PERSON OF INTEREST**

- a. **General.** If Council on reasonable and probable grounds determines that a person present on the Reserve:
 - i. is engaged in illegal activity;
 - ii. may pose a threat to the safety and wellbeing of persons present on the Reserve or to the observance of law and order on the Reserve;
 - iii. has been charged with a Violent Offence;
 - iv. has threatened to, or is likely to commit a Violent Offence; or
 - v. has caused serious harm or poses a serious threat to the physical or psychological health, safety or wellbeing of one or more persons present on the Reserve.

then Council may by BCR make a determination and declare that the person is a Person of Interest.

- b. **Meeting with a Person of Interest**

- i. The Council may, by BCR, issue to a Person of Interest a request (a "Request") to meet with the NHCN Safety Director within seven (7) days of receiving the Request.
- ii. The Request made under Section 9.a. shall include the reasons that Council has determined that the person to be a Person of Interest.
- iii. If the Person of Interest fails to contact the NHCN Safety Director to arrange to meet within seven (7) days of Receiving the Request, then Council may, following notice by the NHCN Safety Director that the Person of Interest failed to contact them, take any steps necessary under this Bylaw to ensure the safety of the residents on the Reserve without further notice to the person of interest.

- iv. At least three (3) business days prior to the meeting with the Person of Interest and the NHCN Safety Director, the NHCN Safety Director shall provide the Person of Interest with written notice of the date, time and location of the meeting.
- v. At the meeting, the NHCN Safety Director shall give a reasonable opportunity for the Person of Interest, or their representative, to speak.
- vi. the NHCN Safety Director shall consider the following when determining whether to recommend to Council to impose any sanctions, prohibition or conditions:
 - 1. the oral and written submissions made by the Person of Interest, or their representative;
 - 2. whether the behavior of the Person of Interest poses any imminent and serious threat to the peace or safety of persons present on the Reserve or to Council's ability to ensure the observation of law and order on Reserve;
 - 3. whether the behavior is occurring on the Reserve;
 - 4. whether a charge or conviction has been entered;
 - 5. whether the Person of Interest has failed to comply with previous orders issued under this Bylaw;
 - 6. the Person of Interest's compatibility with NHCN culture;
 - 7. the Person of Interest's moral character, considering such factors as a prior conviction for an offence or criminal act under the Criminal Code or the Controlled Drugs and Substances Act, or an offence committed outside of Canada which, if committed in Canada would be an offence under the Criminal Code or the Controlled Drugs and Substances Act;

8. the Person of Interest's interest, engagement in and completion of rehabilitative programming, such as counselling or addictions programs;
 9. the Person of Interest's employment status, including whether the Person of Interest is or will be employed on the Reserve; and
 10. whether the Person of Interest may present a danger to the health or safety of the Band and the people who reside on Reserve; and
 11. any other such information as the NHCN Safety Officer deems necessary and/or relevant.
- vii. The NHCN Safety Director may enact rules of procedures for meetings under this Bylaw.
- c. **Sanctions Imposed on a Person of Interest.** After meeting with the Person of Interest, the NHCN Safety Director may recommend to Council that it take such action that the NHCN Safety Director considers is in the best interest of NHCN, and the people who reside on Reserve, including:
- i. requiring the Person of Interest or their Immediate Family to provide more information;
 - ii. imposing a curfew on the Person of Interest;
 - iii. requiring mediation between a victim and an offender;
 - iv. engaging the Restorative Justice Authority;
 - v. developing a plan of action for long-term counselling plan for the Person of Interest;
 - vi. developing and implementing a land-based healing program for the Person of Interest;
 - vii. prohibiting or restricting the Person of Interest from attending specified locations or events on the Reserve;
 - viii. instructing the NHCN Safety Director or an Enforcement Officer to conduct further investigations;

- ix. sending a warning letter to the Person of Interest of if the Person of Interest is under eighteen (18) years of age, to the subject's parents or guardians and any applicable child welfare agency;
 - x. attempting to resolve the issues by declaration, agreement or informal action;
 - xi. issuing a Restraining Order;
 - xii. issuing a Removal Order;
 - xiii. deciding not to act further; or
 - xiv. taking any other action that the Council considers appropriate.
- b. The decision to do any of the options referred to in subsection 9.c. is within the discretion of the Council.
 - c. All decisions to order a sanction, prohibition or condition under this Part will be made by BCR and will include written reasons.

10. **DESIGNATED INDIVIDUAL**

- a. **NHCN Safety Director Investigation.** Upon receiving information indicating that an individual present on the reserve has either committed a Violent Offense or represents a significant and immediate danger to the physical or psychological welfare, security, or overall welfare of NHCN or any person(s) present on the Reserve, the NHCN Safety Director will initiate an investigation to determine the validity of the provided information. After conducting a thorough inquiry, if the NHCN Safety Director deems the information to be credible, they will recommend to the Council to designate the individual as a "Designated Individual."
- b. **Council Determination.** If, after taking into account a recommendation from the NHCN Safety Director and acting reasonably and in good faith, the Council concludes that an individual has committed a Violent Offense or represents a substantial and immediate risk to the physical or psychological welfare, safety, or overall well-being of NHCN or any person(s) present on the Reserve, the Council may by BCR, determine and declare that the individual is to be designated as a "Designated Individual."

- c. **Sanctions Imposed on a Designated Individual.** Subject to the limitations imposed by law, review by legal counsel, and following any appeal process, Council may authorize such terms and conditions as Council deems just and appropriate to restrict or prohibit the presence of a Designated Individual on the Reserve or any part of the Reserve, which may include any singular or combination of the following:
- i. posting the name of a Designated Individual at a NHCN facility or otherwise informing Band Members and residents of the Reserve of the presence of a Designated Individual on the Reserve;
 - ii. taking into account the severity of the offence, the balance between community protection and the reasonable privacy of individuals, provide information to other First Nations regarding the Designated Individual;
 - iii. referring the Designated Individual to the Restorative Justice Authority for rehabilitation;
 - iv. issuing a Restraining Order;
 - v. issuing a Removal Order.

11. RESTRAINING ORDER.

- a. A Restraining Order may be issued by Council in order to:
- i. prohibit or prevent a person from using or accessing NHCN computers, servers, e-mail addresses, copiers, notice boards, social media, equipment or facilities;
 - ii. prohibit or restrict a person from attending specified locations or events on Reserve or being present within specified areas or facilities on Reserve during specified dates or times;
 - iii. prohibit a person from being within a prescribed distance from:
 - 1. specified locations or events; or

2. a particular Person;
 - iv. evict the person from NHCN housing, rental housing or housing leased on Reserve, for a specified period of time; or
 - v. banish the person from using, occupying, or possessing Reserve for a specified time.
- b. A Person who has been evicted or banished or is subject to Restraining Order may return to the Reserve to collect personal possessions provided that the Person:
- i. provides at least three (3) days written notice to the Chief or the Chief's designate and receives written confirmation from the Chief or their designate, with a copy of the communication sent to Council setting out a date and time;
 - ii. agrees to be escorted by the RCMP, or an Enforcement Officer, or a NHCN Safety Director;
 - iii. does not engage in or threaten to engage in a Violent Offence, or other potentially dangerous harmful behaviours; or
 - iv. goes directly to their former residence, leaves directly from their former residence, takes only those possessions that are demonstrably owned by the Person, and stays for no longer than four (4) hours.

The access granted by the Chief under section 2. above. may be revoked by the Chief if the Person fails to comply with the conditions set out in that section.

- c. **Contents of a Restraining Order.** A Restraining Order must contain:
- i. the name of the Designated Individual and sufficient identifying information;
 - ii. the offence for which the Designated Individual was convicted, if applicable;
 - iii. the date upon which the Designated Individual was convicted for the offence, if applicable;
 - iv. the date upon which the Restraining Order was authorized by BCR;

- v. the date upon which the Restraining Order was issued;
 - vi. the date upon which the Restraining Order becomes effective;
 - vii. the date upon which the Restraining Order expires, if applicable;
 - viii. any terms or conditions imposed or required by the BCR;
 - ix. if applicable, a list of building or areas or a map of NHCN Reserve Lands clearly showing the specific locations for which a Designated Individual's access is prohibited or restricted; and
 - x. information stating that the individual may request a review or appeal of the NHCN Restraining Order.
- d. All decisions, determinations or orders made under this Part must be made pursuant to BCR.

12. REMOVAL ORDER

- a. Council must not issue a Removal Order under this Part unless it is reasonably satisfied that the presence of the person poses a real threat to the health, safety or wellbeing of people residing on NHCN Reserves.
- b. A Removal Order shall not be considered under this Bylaw if the Person of Interest is under the age of eighteen (18) years.
- c. Council may issue a Removal Order if it is satisfied that the presence of the Person of Interest on Reserve is threatening the safety and well-being of the Band, and that the Person of Interest has not shown Council any indication of changing or stopping certain behavior identified by Council as dangerous.
- d. All decisions to issue a Removal Order will be made by written BCR.
- e. A Removal Order issued under this Bylaw for a Band Member will be for a defined period of time, not to exceed one year.
- f. A Removal Order issued under this Bylaw for a non-Band Member may be permanent or for a defined period of time.

- g. For greater certainty, an order made pursuant to Sections 12.e. may following application by the person and consideration by Council be renewed by Council on a yearly basis.
- h. A Removal Order must contain:
 - i. the name of the person subject to the Removal Order;
 - ii. a description of the steps Council took in reaching the decision to remove the person;
 - iii. a description of the activities in respect of which the Removal Order is made;
 - iv. the time and date upon which the Removal Order is effective;
 - v. a provision requiring the person to vacate the Reserve on or before a date specified in the Removal Order;
 - vi. if a person is party to a tenancy agreement or lease, a provision terminating the tenancy agreement or lease of any tenant of the property on the date specified under subsection iv.;
 - vii. a provision instructing all persons from causing, contributing to, permitting, or acquiescing in the activities, beginning on the day after the person is served with the order and continuing until the order ceases to be in effect;
 - viii. any conditions attached to the return of the person to the Reserve at the expiration of the Removal Order; and
 - ix. a provision fixing the date on which the order ceases to be in effect, if applicable.
- i. A decision of the Council under this Section shall be sent to the RCMP.
- j. All decisions made by the Council under this Part can be appealed, as provided for by Section 14 of this Bylaw.
- k. **Effective Time of a Removal Order**

- i. Where a Removal Order has been issued the person subject to the Removal Order must leave the Reserve by the time and date upon which the Removal Order is effective, which shall not be less than 48 hours.
- ii. Once a Removal Order comes into effect, it is in force until it expires according to its terms or is cancelled.
- iii. The person subject to the Removal Order must remove their personal belongings from the property by the time and date upon which the Removal Order is effective.
- iv. If an individual believes they have personal belongings that remain on the property where they were residing after the Removal Order takes effect, the individual may contact the NHCN Safety Director and:
 1. provide a detailed list of personal belongings and arrange to have the personal belongings delivered to an agreed-upon location off Reserve; or
 2. at the sole discretion of the NHCN Safety Director, arrange for re-entry onto Reserve in the presence of an Enforcement Officer for a specified period of time to gather and remove the personal belongings.

I. Visits

- i. A person subject to the Removal Order may apply to the NHCN Safety Director for permission to visit the Reserve for the purposes of funerals, ceremonies, and other special occasions.
- ii. A person making an application under for permission to visit shall include in his or her application the dates upon which the person proposes to visit the Reserve, the purpose of the visit, where on the Reserve the person will be present, and any additional information or submissions the person wishes Council to consider.
- iii. The NHCN Safety Director shall use their best efforts to consider and determine applications under this Part as soon as possible, and in advance of the proposed visitation dates.

- iv. The NHCN Safety Office shall consider and determine applications for permission to visit on the basis of the written application and is not required to hold a hearing into the matter.
- v. The NHCN Safety Director may recommend to the Council that a visit should be permitted for the person, with or without condition. Based on the recommendation of the NHCN Safety Director, Council by BCR will determine visitation rights of a person and such determination will decide is final and not subject to appeal.
- m. **Persons Not Affected.** No Removal Order shall impact upon the ability of the spouse or children of the person subject to the Removal Order to continue to reside on the Reserve or visit the Reserve.
- n. **Cancellation of a Removal Order**
 - i. After the thirty (30)-day appeal period has passed and the circumstances on which the Removal Order was made no longer exist the Removal Order shall be cancelled and will no longer be in effect.
 - ii. A person subject to the Removal Order may apply to Council for cancellation of the Removal Order if they can establish to the satisfaction of the Council that the circumstances for which the Removal Order was issued have changed.
 - iii. As soon as reasonably practicable after receiving an application under section n.ii. Council must:
 - 1. consider the application at a duly convened Council meeting; and
 - 2. by BCR, either approve the application for cancellation or reject the application for cancellation, with reasons.
 - iv. A person subject to the Removal Order whose application for cancellation has been rejected by Council is prohibited from making a further application for cancellation of the Removal Order for six (6) months after the reasons for rejection have been provided.
 - v. A Council meeting held under section n.iii. must be held in camera.
 - vi. A cancellation of a Removal Order must be made by BCR.

13. EMERGENCY ORDER

- a. If the Council determines that the presence of a person on the Reserve poses an immediate threat:
 - i. to the safety of any person(s) present on the Reserve;
 - ii. to the preservation of property on the Reserve; or
 - iii. the observance of law and order on the Reserve

the Council may, by BCR, issue an emergency Restraining Order or Removal Order.
- b. An emergency Removal Order or Restraining Order may not be for a period of time in excess of ninety (90) days.
- c. All decisions made by the Council under this Part can be appealed, as set out in this Bylaw, however the emergency Removal Order will remain in effect while the appeal process is taking place.

14. APPEALING SANCTIONS

- a. A person subject to a sanction, prohibition, decision or condition ordered under this Bylaw who disagrees with the decision outlined in the BCR or desires an existing BCR to be amended or terminated may apply to the Appeal Tribunal to hold a hearing.
- b. All applications for appeals under this Bylaw must be within thirty (30) days of the date that the BCR was delivered to the person who is subject to the decision made in the BCR. Notwithstanding the preceding, an application for an appeal of an Emergency Order must be held within three (3) days of the date that the BCR issuing the Order was made.
- c. The council may extend the time for making the appeal application if it is satisfied that the extension is in the interests of justice.
- d. If an appeal is received within the thirty (30) daytime limit, an Appeal Tribunal will be appointed by Council to hold the hearing as soon as is reasonably practicable.

- e. At least seven (7) days prior to the hearing, the Appeal Tribunal shall:
 - i. give written notice by way of personal service to the appellant informing them of the date, time and place of the hearing and that they have a right to present submissions to the Appeal Tribunal in writing, by telephone or in person;
 - ii. give written notice by way of personal service to Council of the date, time and place of the hearing, informing them that they have a right to appear at to present submissions in writing or in person; and
 - iii. post a copy of the notice of the hearing in a public area in the locations for notice provided for in Section 5 of this Bylaw.
- f. If the appellant is incarcerated, notice pursuant to section 14.e. will be sufficient if it is sent to his or her attention at the correctional facility where they are being held.
- g. If the appellant is less than eighteen (18) years of age, notice pursuant to section 11.e.i. shall also be given to his or her parents or guardians and any applicable child welfare agency.
- h. At the hearing, the Appeal Tribunal:
 - i. shall review the BCR and any recording or notes of the meeting between Council and the Person of Interest, any written record associated with that meeting including, for example, minutes, transcripts and written submissions made, if available;
 - ii. may provide all party's an opportunity to respond to the BCR and to make oral and written submissions, or both, on the petition; and
 - iii. can ask any questions to the Council and the Appellant.
- i. Within fourteen (14) business days of the hearing, the Appeal Tribunal shall provide a written decision either:
 - i. declaring a BCR invalid;

- ii. setting aside a BCR and referring the decision back to Council for determination in accordance with such directions as it considers appropriate; or
 - iii. confirming the BCR ordered by Council and dismissing the appeal application.
- j. The Appeal Tribunal shall include in their written decision under Section 11.i, the reasons for their decision, which may include, but are not limited to:
- i. that Council erred in making their decision based on an incorrect interpretation of the Bylaw, or of the facts;
 - ii. that Council based its decision or sanction on an erroneous fact;
 - iii. that Council failed to observe a principle of natural justice, procedural fairness, or other procedure that it was required by law to observe; or
 - iv. that Council acted in any other way contrary to law or custom.
- k. The Appeal Tribunal, in making their decision, can interpret this Bylaw.
- l. A decision of the Appeal Tribunal under this Section shall be final and not subject to appeal or judicial review and an applicant shall not reapply for one year from the date of the denied application, unless:
- i. the Appeal Tribunal grants special permission due to a material change in the applicant's circumstances; or
 - ii. The council offers the applicant a new hearing.

15. APPEALS TRIBUNAL

The Appeals Tribunal shall consist of five (5) Band Members appointed by Council:

- a. who reside on Reserve;
- b. each of whom have attained the age of 18 years;
- c. none of whom are the Immediate Family of the appellant;

- d. and each of whom has knowledge or experience in the legal or justice systems.

16. NO LIABILITY FOR DECISIONS MADE IN GOOD FAITH

NHCN, including Council, the Appeals Committee or any person acting on authority of, or under the direction of Council, is not liable for any damages arising from any action taken pursuant to this Bylaw, including issuing a Removal Order, provided that the action or order was made in good faith.

17. ENFORCEMENT

- a. This Bylaw is enforceable by any Enforcement Officer.
- b. Where a person who has received an order fails or refuses to comply with such an order, an Enforcement Officer may take such reasonable measures as are necessary to enforce that order.
- c. A person who fails or refuses to comply with an order made under this Bylaw or who resists or interferes with an Enforcement Officer commits an offence.
- d. Where under section 81 (2) of the Indian Act this Bylaw is contravened and a conviction entered, a court of competent jurisdiction may make an order prohibiting the continuation or repetition of the offence by the person convicted.
- e. Where under section 81 (3) of the Indian Act this Bylaw is contravened, such contravention may be restrained by Court action to prevent the continuation of disorderly conduct or restriction or prohibition of the Person of Interest with the First Nation.

18. PENALTY

- a. Any person who fails or refuses to comply with this Bylaw, or who assists a person who is contravening this Bylaw, commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars (\$1,000.00) or to imprisonment for a term not exceeding thirty (30) days, or both.
- b. A person who commits an offence under this Bylaw is liable on summary conviction to a fine not exceeding one thousand dollars (\$1,000.00) or to imprisonment for a term not exceeding thirty days, or to both.

- c. In addition to all other penalties provided herein, any person causing damage or loss to any Reserve property as a result of an offence under this Bylaw will be responsible for the cost of repairing or replacing such damage or loss.
- d. Council reserves the right to revisit this issue and amend the Bylaw at a regularly convened Council meeting of the First Nation.

19. JUDICIAL REVIEW

On any application for judicial review in respect of a BCR made under this Bylaw, the Court shall take notice of the specialized knowledge and expertise of the members of the Appeals Tribunal and Council with respect to the history, culture and values of the NHCN, as well as the best interests of NHCN.

20. NOTICE

- a. A person has notice not to trespass or engage in a specific activity when he or she has been given notice.
- b. Any person entering the Reserve is presumed to have received notice of this Bylaw.
- c. Notice under this Part may be given:
 - i. orally;
 - ii. in writing;
 - iii. by means of posting this Bylaw in a public area in the NHCN Administration Building; or
 - iv. by means of signs posted so that a sign is clearly visible in the daylight under normal conditions from the approach to an ordinary point of access to the Reserve or to a specific location on the Reserve.
- d. a sign naming an activity or showing a graphic representation of an activity with an oblique line drawn through the representation is sufficient for the purpose of giving notice that the activity is prohibited.

21. SEVERALABILITY

Should a Court determine that a 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 affected.

22. CONFLICT OF TERMS

If there is any inconsistency between this Bylaw and any other agreement, law, bylaw or policy, the terms of this Bylaw will prevail.

23. CALCULATION OF TIME

- a. Where there is a reference to a number of days or a number of days in between two events within this Bylaw, in calculating the number of days, the days on which the events happen are excluded and Saturdays and Sundays are included.
- b. Where the time limited for the doing of an act under this Bylaw expires or falls on a Saturday or Sunday or a federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday.
- c. If the time for doing an act under this Bylaw is with respect to an act required in a business office and falls or expires on a day when the office is not open during regular business hours, the time is extended to the next day that the office is open during regular business hours.

24. AMENDMENTS

This Bylaw may be amended at a duly convened Council meeting with a quorum consisting of four (4) councillors and the Chief.

25. DATE BYLAW COMES INTO FORCE

This Bylaw shall come into force when a copy of it is first published on NHCN's Internet site, in the First Nations Gazette or in a newspaper that has general circulation on the Reserve, whichever Council considers appropriate in the circumstances pursuant to section 86 of the Indian Act and Council hereby confirms that any of these forms of publication are appropriate in the circumstance.

THIS BY-LAW IS HEREBY MADE AT A DULY CONVENED MEETING OF THE COUNCIL OF NORWAY HOUSE CREE NATION THIS 13th DAY OF February, 2024.

VOTING IN FAVOR OF THE BY-LAW ARE THE FOLLOWING MEMBERS OF THE COUNCIL:

Henrie Kwole
WITNESS

[Signature]
CHIEF LARSON ANDERSON

Henrie Kwole
WITNESS

[Signature]
COUNCILLOR EDWARD ALBERT

Henrie Kwole
WITNESS

[Signature]
COUNCILLOR ORVILLE APETAGON

Henrie Kwole
WITNESS

[Signature]
COUNCILLOR DEON CLARKE

Henrie Kwole
WITNESS

[Signature]
COUNCILLOR ANTHONY APETAGON

Henrie Kwole
WITNESS

[Signature]
COUNCILLOR JOHN HENRY JR.

Henrie Kwole
WITNESS

[Signature]
COUNCILLOR DAVID SWANSON

