

# **THUNDERCHILD FIRST NATION**

## **PANDEMIC RESPONSE**

### **BY-LAW # 2020/21-009**



**Dated April 23, 2020**

## Contents

PART 1	TITLE .....	2
PART 2	PURPOSE & APPLICATION .....	3
PART 3	INTERPRETATION .....	3
PART 4	APPOINTMENT OF FIRST NATION OFFICIALS .....	5
PART 5	RESTRICTIONS WITHIN BUSINESSES & OTHER PREMISES .....	5
PART 6	RESTRICTIONS ON PUBLIC GATHERINGS .....	6
PART 7	PARKING RESTRICTIONS .....	8
PART 8	GENERAL .....	9



# THUNDERCHILD FIRST NATION

## By-Law No. 2020-01

### A By-Law for Pandemic Prevention and Response

**WHEREAS** there is a current health emergency effecting Thunderchild First Nation Lands and elsewhere in Saskatchewan and Canada as a result of a novel coronavirus, known as Covid-19 ("COVID-19"), presenting a serious risk to the health and safety of Thunderchild First Nation (the "First Nation") Members and residents;

**WHEREAS** COVID-19 is a disease that is readily communicable from person to person and carries risks of fever, pneumonia, and in the most serious cases, a risk of death;

**WHEREAS** the spread of COVID-19 has been declared a pandemic by the World Health Organization and the Government of Saskatchewan declared a public State of Emergency on March 18, 2020;

**WHEREAS** the Chief Medical Officer of Saskatchewan has made numerous Public Health Orders, most recently April 4, 2020, directing and ordering a number of restrictions and guidelines to control the transmission of COVID-19;

**WHEREAS** Council has been advised of the need to adopt social distancing protocols, restrictions on public gatherings, and restrictions on the access and use of Thunderchild First Nation Lands to reduce the risk of introducing and spreading the COVID-19 virus amongst Members, residents and their families;

**WHEREAS** sections 81(1)(a), (b), (c), (m), (n), (p), (q) and (r) of the *Indian Act* (R.S.C., 1985, c. I-5) permits Council to enact bylaws to provide for the health of residents on Thunderchild First Nation Lands and to prevent the spreading of contagious and infectious diseases, which may include the control of vehicle traffic and access to Thunderchild First Nation Lands;

**WHEREAS** Council reasonably believes that an emergency pandemic response By-Law is required to protect Members and residents from the spread of COVID-19;

**WHEREAS** this Law will expire within one hundred and twenty (120) days of enactment and may be extended by Council if necessary;

**WHEREAS** Council will monitor the on-going COVID-19 risks to Thunderchild First Nation Lands and Members, residents and may decide at a future date whether to re-enact, amend, or repeal all or part of this By-Law;

**NOW THEREFORE BE IT RESOLVED THAT** the *Thunderchild First Nation Pandemic Response By-Law (2020)* is hereby enacted as a by-law of the First Nation.

### PART 1 TITLE

1.1 This By-Law may be cited as the Thunderchild First Nation Pandemic Response By-Law.





## PART 2 PURPOSE & APPLICATION

### Purpose

- 2.1 The purpose of this By-Law is to provide for the protection of Thunderchild First Nation Lands, the health and safety of the Members, residents and their families by imposing measures and controls to reduce the risk of the spread of the COVID-19 virus on Thunderchild First Nation Lands.
- 2.2 This By-Law has been adopted by Council as a by-law on an urgent basis, in accordance with the *Indian Act* for the purpose of imposing temporary measures required to reduce the risk of harm on Thunderchild First Nation Lands.

### Application

- 2.3 The provisions of this By-Law apply to all Thunderchild First Nation Lands, as herein defined.

## PART 3 INTERPRETATION

### Definitions

- 3.1 In this By-Law

**"Business(es)"** means any enterprising entity, engaged in the carrying on of any commercial, industrial or professional activities, including but not limited to public facing sales, services, or other similar exchanges;

**"Chief"** means the duly elected Chief of the First Nation;

**"Council"** means the duly elected Chief and Council of the First Nation;

**"Council Resolution"** means a formal, written motion passed by a quorum of Council at a duly convened meeting of Council;

**"Councillor"** means a duly elected Councillor of the First Nation;

**"Emergency and Medical Personnel"** means those individuals responding to a medical emergency, or otherwise, where there is ongoing or imminent danger to a person(s), acute medical emergency, or other such situation whereby it would be reasonable to classify an emergency. Such persons may include, but shall not be limited to, a Peace Officer, emergency medical service (EMS) personnel, and childcare workers of Indian Child and Family Service agencies;

**"Essential Employees"** means those persons employed by the First Nation, who have been determined by the Chief to be essential to the function, safety, or continuity of the First Nation's day to day activities;



**"First Nation"** means Thunderchild First Nation and all controlled entities, subsidiaries and affiliates thereof;

**"First Nation Official"** means those persons employed, or appointed by Council to carry out the duties as outlined within this By-Law, or as are instructed by Council;

**"Immediate family"** means a person's mother, father, sister, brother, child(ren), spouse or Common Law partner;

**"Member"** means a person whose name appears or is entitled to appear on the Thunderchild First Nation band Membership List;

**"Motor vehicle"** means any vehicle, four-wheeler, motorcycle, all-terrain vehicle, or any other similar device which is propelled or driven by any means other than by muscular power;

**"Order"** means an order made pursuant to this By-Law;

**"Pandemic Plan"** means the Thunderchild First Nation Pandemic Plan, March 2020, and Thunderchild First Nation Emergency Response Plan, March 2020, as enacted by Council Resolution 2019/20 – 059, dated March 30, 2020;

**"Peace Officer"** has the meaning ascribed in section 2 of the *Criminal Code of Canada*, R.S.C. 1985 c. C-46, as amended, and for greater certainty, a member of a police force in Saskatchewan, or any person appointed by Council pursuant to this By-Law or a person appointed pursuant to another Thunderchild First Nation Law;

**"Public Health Official"** means those persons employed by the First Nation, municipal, provincial or federal governments or departments, and who are recognized as responsible to make and/or communicate certain decisions respecting recommendations and safety measures to protect the public from a recognized health issue;

**"Public Health Order"** means the most recent order issued by the Chief Medical Officer of Saskatchewan, pursuant to section 45 of *The Public Health Act, 1994*, and with the authorization of the Saskatchewan Minister of Health. At the coming into force of this By-Law the most recent Public Health Order was issued on April 4, 2020;

**"Residential, Commercial and Industrial Lot"** means those lots identified within an existing subdivision plan or other similar instrument of the First Nation, whether the lots are currently developed and occupied or part of a future development;

**"Rural Yards"** means those Thunderchild First Nation Lands which are subject to an existing subdivision plan of the First Nation, or part of lands included within a future development plan of the First Nation, and which are normally understood to be existing or past residences or dwellings on Thunderchild First Nation Lands;

**"Thunderchild First Nation Administrative Offices"** means the central administrative office of the First Nation located on Thunderchild First Nation Lands;

**"Thunderchild First Nation Lands"** means those current and future lands set aside by Her Majesty the Queen in Right of Canada for the benefit of Thunderchild First Nation,



and those lands held owned by any subsidiaries, affiliates or entities of the First Nation;  
and

**“Thunderchild First Nation Law”** means a law or regulation enacted by the First Nation, but does not include a Council Resolution.

#### **Fair Interpretation**

- 3.2 The By-Law shall be interpreted in a fair, large and liberal manner.

### **PART 4 APPOINTMENT OF FIRST NATION OFFICIALS**

#### **Appointment of First Nation Officials**

- 4.1 Council may appoint through Council Resolution, an employee, Councillor, or any other person, to be a First Nation Official for the purposes of this By-Law.
- 4.2 A First Nation Official, once appointed by Council, has the following powers:
- a) to enforce any of the provisions under this By-Law;
  - b) to issue Orders pursuant to this By-Law; and
  - c) to issue fines and other penalties under this By-Law.
- 4.3 Council may, at its sole discretion and without imparting any obligation to do so whatsoever, provide for remuneration of a First Nation Official.

### **PART 5 RESTRICTIONS WITHIN BUSINESSES & OTHER PREMISES**

#### **Restrictions on hours of operation and number of occupants**

- 5.1 For the purposes of protecting Members' and residents' health, Council may issue Orders restricting the hours of operation, and number of persons entering Businesses or other similar premises, on Thunderchild First Nation Lands.

#### **Interference with restrictions on entering Businesses and premises**

- 5.2 Any person who violates an Order restricting the number of persons entering a Business or other similar premises on Thunderchild First Nation Lands commits an offence and is liable on conviction to a fine not exceeding one thousand dollars (\$1,000), imprisonment for up to thirty (30) days, or both imprisonment and a fine.

## PART 6 RESTRICTIONS ON PUBLIC GATHERINGS

### Restrictions on access to Thunderchild First Nation Lands

6.1 No person, other than:

- a) a Member, and their immediate family;
- b) a Peace Officer, coroner, or Emergency and Medical Personnel;
- c) a First Nation Official;
- d) an Essential Employee, and non-Essential Employee who has the approval of Council to attend the Thunderchild First Nation Administrative Offices for the purposes of administrative duties;
- e) a non-Member who is normally resident on Thunderchild First Nation Lands; and
- f) such other persons specifically authorized by Council,

is authorized to enter onto or remain on Thunderchild First Nation Lands while this By-Law is in force.

6.2 The execution and performance by Council of all steps necessary to protect the health and safety of the Members and residents of the First Nation from COVID-19, include, without limitation, any of the following actions necessary to carry out the Pandemic Plan:

- a) prohibiting access to the First Nation, except in the case of Members, residents, Essential Employees, and individuals delivering essential services as defined by Council from time to time;
- b) requiring those workers/contractors who may be contracted to complete work on Thunderchild First Nation Lands, to first provide Council with sufficient satisfaction that proper safety procedures and protocols are in place to reduce risk of the spread of COVID-19 prior to consent of entry to Thunderchild First Nation Lands is authorized by Council;
- c) limiting private gatherings, assemblies, or parties involving any more persons than are permitted by the Public Health Order on Thunderchild First Nation Lands, without the specific permission of Council;
- d) require Members, residents or other persons entering the First Nation to follow self-isolation/quarantine requirements as prescribed by the Public Health Order;
- e) erecting signs at entry points to the First Nation prohibiting all access from Thunderchild First Nation Lands, with the exception of Essential Employees and individuals delivering emergency services or critical supplies from entering the First Nation, including but not limited to erecting signs at:





- i. all, whether existing or in development, Residential, Commercial and Industrial Lot roadway entrances; and
- ii. all Rural Yards located on Thunderchild First Nation Lands, whether occupied or not.
- f) erecting checkpoints at entry points to the First Nation to prohibit individuals who are not Members, residents, Essential Employees, or individuals delivering emergency services or critical supplies, as defined by Council from time to time, from entering the First Nation;
- g) Closing or restricting roads, trails, abandoned railway (beds), or any other lands which Council determines reasonable to close or restrict;
- h) requiring all individuals monitoring checkpoints to adhere to the policy of social distancing, namely, by remaining approximately two (2) meters away from the vehicle or other individuals or as required by the Public Health Order;
- i) Requiring all individuals to adhere to temperature checks at checkpoints for the purpose of monitoring individuals with higher than normal body temperatures; and
- j) All persons engaged in enforcing this Law must wear PPE while carrying out their duties

#### **Restrictions and Closure of public facilities**

- 6.3 Council may order the closure, or restrictions on access to, community facilities on Thunderchild First Nation Lands including schools and school playgrounds, halls, arenas and other recreational spaces, which may include repurposing of community facilities as Council deems necessary in order to best respond to the current pandemic.

#### **Social distancing requirements**

- 6.4 In order to protect the health and safety of the First Nation and Members, residents and persons authorized to be on Thunderchild First Nation Lands must practice social distancing by maintaining a distance of at least two (2) meters from persons other than those with whom they share or occupy a residence or dwelling. First Nation Officials, as authorized by Council, Public Health Officials and other health care professionals may issue additional Orders for social distancing and similar conduct on Thunderchild First Nation Lands.

#### **Restrictions on public gatherings without permission**

- 6.5 No person shall participate in a public gathering, assemblies, or parties involving any more persons than are permitted by the Public Health Order on Thunderchild First Nation Lands, without the specific permission of Council.



- 6.6 With respect to funerals and wakes on Thunderchild First Nation Lands, all services shall be conducted in consultation with a First Nation Official, and no service shall include any more persons than are permitted by the Public Health Order, or such other restrictions as may be enacted by Council, from time to time.

#### **Restrictions apply to homes and residences**

- 6.7 The restrictions under this By-Law on public gatherings, assemblies, or parties applies to residences, and dwellings on Thunderchild First Nation Lands whether occupied by Members or non-Members.
- 6.8 The restrictions under this By-Law on public gatherings, assemblies, or parties in residences or dwellings on Thunderchild First Nation Lands does not apply to the ordinary use of those residences or dwellings by persons who are normally resident of such.

#### **Orders**

- 6.9 Council may authorize First Nation Officials to order that persons participating in public gatherings, assemblies, or parties contrary to this By-Law and the Public Health Order, cease participating in those public gatherings, assemblies, or parties immediately.

#### **Assistance of Peace Officers**

- 6.10 First Nation Officials, Public Health Officers and other health care professionals authorized to issue Orders under this By-Law may request the assistance of the Peace Officers to carry out orders under this By-Law.

#### **Offence**

- 6.11 Any person who does not comply with an Order regarding access, social distancing, public gatherings, assemblies, or parties is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars (\$1,000), imprisonment for up to thirty (30) days, or to both imprisonment and a fine.

### **PART 7      PARKING RESTRICTIONS**

#### **Parking**

- 7.1 No person may park a motor vehicle on any Thunderchild First Nation Lands, other than lands on which signs have been erected permitting parking, and those lands ordinarily used by Members for parking adjacent to, or near, their residences.

#### **No Parking signs**

- 7.2 Council may authorize First Nation Officials to post signs restricting or banning parking motor vehicles on any Thunderchild First Nation Lands, including any lands on which parking has been permitted in the past, if deemed necessary by Council to prevent the risk of the spread of COVID-19, or to ensure that emergency and health officials have access to any Thunderchild First Nation Lands.

#### **Removal of Vehicles**

- 7.3 Council may authorize First Nation Officials to tow or remove vehicles that are parked in violation of this By-Law and the First Nation is not liable for damages to a motor vehicle, or damages incurred by any person affected by the need to tow or remove the motor vehicle.

#### **Offence**

- 7.4 Any person who fails to remove a motor vehicle when ordered to do so by a First Nation Official, who obstructs a First Nation Official in the course of their duties related to parking violations, or who repeatedly parks a motor vehicle in contravention of this By-Law is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars (\$1,000), imprisonment for up to thirty (30) days, or to both imprisonment and a fine.

## **PART 8 GENERAL**

#### **Nature of this By-Law**

- 8.1 This By-Law is to respond to an urgent situation on Thunderchild First Nation Lands and to protect the health and safety of members and residents of Thunderchild First Nation Lands. This Law may be revoked by Council by Council Resolution at any time after the Law is enacted, except to the extent required to complete any enforcement actions arising from events taking place while this By-Law was in force.

#### **By-Law applies to First Nation employees and Council**

- 8.2 Employees, representatives and agents of the First Nation may be suspended for a period of time specified by Council, or have their employment or contract with the First Nation, should the employment agreement or contract permit, terminated if they fail to comply with an Order issued under this By-Law.

#### **No liability**



- 8.3 None of the First Nation, Council, or past or present members, employees, representatives or agents of the First Nation or Council 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 any other Thunderchild First Nation Law, or from the neglect or failure, for any reason or in any manner, to enforce this By-Law or any other Thunderchild First Nation Law.

#### **Limitation Period**

- 8.4 Any actions against the First Nation (including Council and its employees) for the unlawful doing of anything that:
- a) is purported to have been done under the powers conferred by this By-Law or any other Thunderchild First Nation Law; and
  - b) might have been lawfully done if acting in the manner established by law, must be commenced within six (6) months after the cause of action first arose.

#### **Required Notice**

- 8.5 The First Nation is in no case liable for damages unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to the First Nation within two (2) months from the date on which the damage was sustained. In the case of the death of a person injured, the failure to give notice required by this section is not a bar to the maintenance of the action, if the court before whom it is tried, or, in case of appeal, the court of appeal, believes:
- a) there was a reasonable excuse; and
  - b) The First Nation has not been prejudiced in its defence by the failure or insufficiency.

#### **Compliance with other Laws**

- 8.6 Where any other law or legal requirement may apply to any matter covered by this By-Law, including those requirements and provisions of the Public Health Order, compliance with this By-Law will not relieve the person from also complying with the provisions of such other applicable law or legal requirement.

#### **Severability**

- 8.7 In the event that all or any part of any section of this By-Law is found by a court of competent jurisdiction to be invalid, that part or section shall be severable, and the remaining portions and sections of this By-Law shall remain in full force and effect.



### **Amendment Procedure**

- 8.8 This By-Law may be amended by a majority of Council at a duly convened meeting of Council.

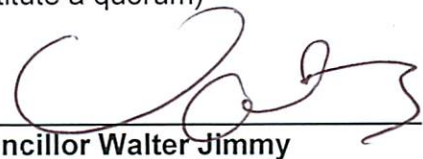
### **Coming into Force**

- 8.9 This By-Law will come into force on the date that it is duly passed by Council, and subsequently approved.

Dated at Thunderchild First Nation on the 23<sup>rd</sup> day of April, 2020.

Number of Council Members present (5 Council Members constitute a quorum)

  
Chief James Snakeskin


  
Councillor Walter Jimmy

\_\_\_\_\_  
Councillor Billy Yellowhead

  
Councillor Melvin Thunderchild

\_\_\_\_\_  
Councillor Michael Linklater

\_\_\_\_\_  
Councillor Savana Walkingbear

  
Councillor John Noon

  
Councillor Barry Paddy



## ORDER PURSUANT TO THE THUNDERCHILD FIRST NATION PANDEMIC RESPONSE BY-LAW

ORDER PURSUANT TO SECTION (5.1 / 6.1 / 6.2 / 6.9) OF THE THUNDERCHILD FIRST NATION PANDEMIC  
RESPONSE BY-LAW

Re: \_\_\_\_\_  
(Name of Person )

Having made all reasonable efforts to resolve the matter through all available means, it is in the best  
interests of Thunderchild First Nation that;

I order that: \_\_\_\_\_  
(describe order)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated at \_\_\_\_\_, Saskatchewan this \_\_\_\_ day of \_\_\_\_\_, 2020.  
(city/town)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

Thunderchild First Nation By-Law Official



## OFFENCE NOTICE OF THUNDERCHILD FIRST NATION PANDEMIC RESPONSE BY-LAW

\_\_\_\_\_  
(print name)

Believes and certifies that on the \_\_\_\_ day of \_\_\_\_\_, 2020, at \_\_\_\_\_(time)

Family Name: \_\_\_\_\_

Given Name: \_\_\_\_\_

Address (if known): \_\_\_\_\_  
\_\_\_\_\_

Driver's License # (if known): \_\_\_\_\_

Date of Birth: \_\_\_\_\_

At: \_\_\_\_\_

(location of Offence)

Did commit an Offence contrary to section \_\_\_\_\_ of the Thunderchild First Nation Pandemic Response By-Law.

An I further certify that served a true copy of this Offence notice personally upon the person charged on the offence date.

Signature issuing Thunderchild First Nation Official

\_\_\_\_\_(Signature)

\_\_\_\_\_(print name)

Total Payable

\$

Payments can be made to Thunderchild  
First Nation at the administration offices  
located at, Thunderchild IR 115B

### Important:

You have 15 days from the day you receive this notice to choose one of the options on the back of the notice





**Important** – If you do not exercise one of the following options within 15 days of receiving this notice, you will be deemed not to dispute the offence. If the fine goes into default, an administrative fee will be added and steps will be taken to enforce your defaulted fine.

**OPTION 1**

**Plead Guilty - Voluntary Payment of Total Payable:** I plead guilty and payment of the total payable is enclosed to Thunderchild First Nation.

**OPTION 2**

**Plead Guilty – Submission as to the Total Payable or Community Service:** I want to make submissions as to the Total Payable and/or to request Community Service. **Note: you must attend to speak with Council, at a duly convened meeting, regarding this option within 15 days of Service of the Offence Notice.**

**OPTION 3**

**Plead not Guilty: Request an adjudication of the Offence by Council on the merits of the matters.** I dispute the offence and want an adjudication of the merits completed by Council. **Note: you must attend to speak with Council, at a duly convened meeting, regarding this option within 15 days of Service of the Offence Notice.**