

WHITECAP DAKOTA FIRST NATION

INTERIM PANDEMIC PREVENTION LAW



Dated April 3, 2020

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PRINCIPLES

WHEREAS there is a current health emergency effecting Whitecap Dakota 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 Whitecap Dakota 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 Ministry of Health and the Government of Saskatchewan ordered a Public Health Order on March 20, 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 physical distancing protocols, restrictions on public gatherings, and restrictions on the use of Whitecap Dakota Lands to reduce the risk of introducing and spreading the COVID-19 virus amongst Members, residents and their families;

WHEREAS section 8.1 of the Land Code provides for the authority of Council to enact laws pursuant to the Land Code, for the conservation, protection, and management of Whitecap Dakota Lands;

WHEREAS section 9.8 of the Land Code permits Council to enact emergency laws which are urgently needed in the interests of public health and safety;

WHEREAS Council reasonably believes that an emergency pandemic response 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 Whitecap Lands and Members, residents and may decide at a future date whether to re-enact, amend, or repeal all or part of this Law;

NOW THEREFORE BE IT RESOLVED THAT the *Whitecap Dakota First Nation Interim Pandemic Prevention Law (2020)* is hereby enacted as a law of the First Nation.

PART 1 TITLE

1.1 This Law may be cited as the Whitecap Dakota First Nation Interim Pandemic Prevention Law.

PART 2 PURPOSE & APPLICATION

Purpose

- 2.1 The purpose of this Law is to provide for the protection of Whitecap Dakota Lands, the environment, the health and safety of the Members, residents and their families by imposing measures to reduce the risk of the spread of the COVID-19 virus on Whitecap Dakota Lands.
- 2.2 This law has been adopted by Council as an interim law on an urgent basis, in accordance with the authority to adopt urgent laws as set out in section 9.8 of the Land Code, for the purpose of imposing temporary measures required to reduce the risk of harm on Whitecap Dakota Lands.

Application

- 2.3 The provisions of this Law apply to all Whitecap Dakota Lands, as herein defined.

PART 3 INTERPRETATION

Definitions

- 3.1 In this 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 Whitecap Dakota First Nation;

“Council” means the duly elected Chief and Council of Whitecap Dakota 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 Whitecap Dakota First Nation;

“emergency and medical personnel” means those individual 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 Council to be essential to the function, safety, or continuity of the First Nation’s day to day activities;

“First Nation” means Whitecap Dakota 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 Law, or as are instructed by Council;

“Immediate family” means a person’s mother, father, sister, brother, children, spouse or Common Law partners;

“Land Code” means the Whitecap Dakota First Nation Land Code, enacted on January 1, 2004 and most recently revised on September 26, 2015, and as amended from time to time;

“Member” means a person whose name appears or is entitled to appear on the Whitecap Dakota 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 Law;

“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 Law or a person appointed pursuant to another Whitecap Dakota Law;

“pedestrian” means a person traveling along a roadway, or common area by foot, bicycle or other manual propelled devices;

“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 Law the most recent Public Health Order was issued on March 26, 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 Whitecap Dakota 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 Whitecap Dakota Lands;

“Whitecap Dakota Administrative Offices” means the central administrative office of the First Nation located at civic address, 182 Chief Whitecap Trail, on Whitecap Dakota Lands;

“Whitecap Dakota Lands” means those lands described in section 6 of the Land Code, or any other lands under the jurisdiction of Whitecap Dakota First Nation; and

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

Fair Interpretation

- 3.2 The 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 resolution, an employee, Councillor, or any other person, to be a First Nation Official for the purposes of this Law.
- 4.2 A First Nation Official, once appointed by Council, has the following powers:
- a) to enforce any of the provisions under this Law;
 - b) to issue orders pursuant to this Law; and
 - c) to issue fines and other penalties under this 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 INTERIM RESTRICTIONS WITHIN BUSINESSES & OTHER PREMISES

Restrictions on hours of operation and number of occupants

- 5.1 For the purposes of protecting Member and resident’s health, Council may issue orders restricting the hours of operation, and number of persons entering Businesses or other similar premises, on Whitecap Dakota 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 Whitecap Dakota Lands commits an offence and is liable on conviction to a fine not exceeding two thousand dollars (\$2,000), imprisonment for up to six (6) months, or both imprisonment and a fine.

PART 6 INTERIM RESTRICTIONS ON PUBLIC GATHERINGS

Restrictions on access to Whitecap Dakota 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 Whitecap Dakota Administrative Offices for the purposes of administrative duties;
 - e) a non-Member who is normally resident on Whitecap Dakota Lands; and/or
 - f) such other persons specifically authorized by Council as essential services.

is authorized to enter onto or remain on Whitecap Dakota Lands while this 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:
- 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 Whitecap Dakota 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 Whitecap Dakota 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 Whitecap Dakota 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 Whitecap Dakota 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:
 - a. all, whether existing or in development, residential, commercial and industrial lot roadway entrances; and
 - b. all rural yards located on Whitecap Dakota 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; and
- g) requiring all individuals monitoring checkpoints to adhere to the policy of physical distancing, namely, by remaining approximately two (2) meters away from the vehicle or other individuals or as required by the Public Health Order.

Restrictions and Closure of public facilities

- 6.3 Council may order the closure, or restrictions on access to, community facilities on Whitecap Dakota Lands including schools and school playgrounds, halls, arenas and other recreational spaces.

Physical distancing requirements

- 6.4 In order to protect the health and safety of the First Nation and Members, persons authorized to be on Whitecap Dakota Lands must practice physical distancing by maintaining a distance of a 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 physical distancing and similar conduct on Whitecap Dakota 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 Public Health Order on Whitecap Dakota First Nation Lands, without the specific permission of Council.

Restrictions apply to homes and residences

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

Orders

- 6.8 Council may authorize First Nation Officials to order that persons participating in public gatherings, assemblies, or parties contrary to this Law cease participating in those public gatherings, assemblies, or parties immediately.

Assistance of Peace Officers

- 6.9 First Nation Officials, Public Health Officers and other health care professionals authorized to issue orders under this Law may request the assistance of the Royal Canadian Mounted Police or Peace Officers to carry out orders under this Law.

Offence

- 6.10 Any person who does not comply with an order regarding access, physical distancing, public gatherings, assemblies, or parties is guilty of an offence and liable on summary conviction to a fine not exceeding two thousand dollars (\$2,000), imprisonment for up to six (6) months, or to both imprisonment and a fine.

PART 7 PARKING RESTRICTIONS

Parking

- 7.1 No person may park a motor vehicle on any Whitecap Dakota 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 Whitecap Dakota 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 Whitecap Dakota Lands.

Removal of Vehicles

- 7.3 Council may authorize First Nation Officials to tow or remove vehicles that are parked in violation of this 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 Law is guilty of an offence and liable on summary conviction to a fine not exceeding two thousand dollars (\$2,000), imprisonment for up to six (6) months, or to both imprisonment and a fine.

PART 8 GENERAL

Interim nature of this Law

- 8.1 This Law is an interim law to respond to an urgent situation on Whitecap Dakota Lands and will no longer be in force one hundred and twenty (120) days after enactment, except to the extent required to complete any enforcement actions arising from events taking place while this Law was in force.
- 8.2 Should it be in the opinion of Council, based on all reliable and relevant information, that this Law should be extended, then Council may extend the Law for an additional sixty (60) days. There shall be no limitation to the number of extensions of this Law made by Council.

Law applies to First Nation employees and Council

- 8.3 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 Law.

No liability

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

Limitation Period

- 8.5 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 Law or any other Whitecap Dakota 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

- 8.6 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

- 8.7 Where any other law or legal requirement may apply to any matter covered by this Law, compliance with this Law will not relieve the person from also complying with the provisions of such other applicable law or legal requirement.

Severability

- 8.8 In the event that all or any part of any section of this 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 Law shall remain in full force and effect.

Amendment Procedure


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

Coming into Force

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

Dated at Whitecap Dakota First Nation on the 3rd day of April, 2020.

Number of Council Members present (2 Council Members constitute a quorum)



Chief Darcy Bear



Councillor Dwayne Eagle

Councillor Dalyn Bear