

## BY-LAW NO. 2017-8

### of the Fisher River Cree Nation

#### A By-Law for Parental Accountability

**WHEREAS** the Council of Fisher River Cree Nation desires to establish a By-Law ensuring that Parents are held reasonably accountable for the activities of their children in relation to Band property;

**AND WHEREAS** the Council of Fisher River Cree Nation is empowered to make such By-Law, and any matter ancillary thereto pursuant to paragraphs 81(1) (c), (d), (q) and (r) of the *Indian Act*, R.S.C. c. I-5,

**AND WHEREAS** it is considered to be expedient and necessary for the benefit, comfort and safety of the inhabitants of the Fisher River Cree Nation Reserve to provide for the assurance that Parents will be held reasonably accountable for the activities of their children in relation to the Band property on the Reserve;

**NOW THEREFORE** the Council of Fisher River Cree Nation hereby makes the following By-Law:

#### **Short Title**

1. This By-Law may be cited as the "Fisher River Cree Nation Parental Accountability By-Law".

#### **Interpretation**

2. In this By-Law,

"*Band*" means the Fisher River Cree Nation;

"*Child*" means a person who is under the age of eighteen (18) years;

"*Council*" means the Chief and Council of the Fisher River Cree Nation;

"*Parent*" means the biological parent, adoptive parent, or guardian of a Child;

"*Reserve*" means the Fisher River Indian Reserves 44 and 44A and any other reserve lands under the authority of Council.

#### **Parent's Liability**

3. Where property of the Band is damaged or destroyed by the deliberate or intentional act of a Child, the Child and the Child's parents are jointly and severally liable to the Band in respect of the act of the Child, and the Band may take action under this By-Law to recover the cost of damage to the Band property from the Child and the Child's Parents.

### **Proof of Damage**

4. In an action under this By-Law, a certificate of decision regarding a conviction made under the Youth Criminal Justice Act (Canada) purporting to be signed by an officer of the court of record and showing that the Child has been found guilty of an offence in respect of the activity that caused damage to Band property is proof, in the absence of evidence to the contrary, that the Child was found guilty of an offence under that Act and that the Child caused damage to Band property.

### **Council's Decision**

5. An action under this By-Law shall be decided upon by Council.

### **Defence**

- 6.1 It is a defence to an action under this By-Law if the Parent establishes to the satisfaction of Council that he or she:
  - (a) was exercising reasonable supervision over the Child at the time the Child engaged in the activity that caused the damage to Band property; and
  - (b) made reasonable efforts in good faith to prevent or discourage the Child from engaging in the kind of activity that resulted in the damage to Band property.
- 6.2 The onus of establishing a defence under section 6.1 rests with the Parent.
- 6.3 In determining whether a Parent exercised reasonable supervision over a Child or made reasonable efforts to prevent or discourage the Child from engaging in the kind of activity that resulted in the damage to Band property, Council may consider:
  - (a) the age of the Child;
  - (b) the prior conduct of the Child;
  - (c) the potential danger of the activity;
  - (d) the physical or mental capacity of the Child;
  - (e) any psychological or other medical disorders of the Child;
  - (f) whether the danger arising from the Child's conduct was reasonably foreseeable by the Parent;
  - (g) whether the Parent was responsible for the care and control of the Child at the time when the Child engaged in the activity that resulted in the damage to Band property;
  - (h) if the Child was temporarily out of the care and control of the Parent when the

Child engaged in the activity that resulted in the damage to Band property, whether the Parent made reasonable arrangements for the supervision of the Child in the temporary location;

- (i) whether the Parent has sought to improve his or her parenting skills by attending parenting courses or otherwise;
- (j) whether the Parent has sought professional assistance for the Child designed to discourage activity of the kind that resulted in the damage to Band property; and
- (k) any other matter that Council considers relevant to the determination.

### **Damage Cost Assessments and Recovery**

- 7.1 Council may determine an estimate of the cost to repair the damages to Band property and recommend how the cost should be recovered.
- 7.2 In determining the cost to repair the damages to Band property, Council may consider any amount ordered as restitution under the *Youth Criminal Justice Act* (Canada).
- 7.3 Council may order payment of the damages:
  - (a) to be made in full before a fixed date; or
  - (b) to be made in installments by fixed dates, if Council considers that a lump sum payment is beyond the financial resources of the Parent or will otherwise impose an unreasonable financial burden on the Parent.

### **Penalty**

- 8. A person who violates any provision of this By-Law is guilty of an offence and is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding thirty days, or to both.

### **General**

- 9.1 Words within this By-Law importing the male gender include the female gender and vice versa, and words importing the singular number include the plural number and vice versa.
- 9.2 This By-Law shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.
- 9.3 Head notes, marginal notes and provision headings form no part of this By-Law but shall be construed as being inserted for convenience of reference only.
- 9.4 A finding by a court of competent jurisdiction that a section or provision of this By-Law is *ultra vires*, void or invalid, shall not affect or bear upon the validity or

invalidity of any other section or part of this By-Law, or this By-Law as a whole.


- 9.5 Where a provision of this By-Law is expressed in the present tense, future tense or in the past tense, the provision applies to the circumstances as they arise.
- 9.6 Any section of this By-Law, including any schedules, may be amended from time to time by a By-Law adopted by Council and approved in accordance with the *Indian Act*.

**Coming Into Force**

10. This By-Law shall come into force upon it being first published pursuant to subsection 86(1) of the *Indian Act*.

**This By-Law is hereby** made at a duly convened meeting of the Council of the Fisher River Cree Nation this 23<sup>rd</sup> day of May, 2017.

Voting in favour of the By-Law are the following members of the Council:

  
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Chief David Crate

  
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Councillor Carl Cochrane

  
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Councillor Shirley Cochrane

  
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Councillor Darrell Thaddeus

  
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Councillor Vince Crate

Being the majority of those members of the Council of the Fisher River Cree Nation present at the aforesaid meeting of the Council.

The quorum of the Council is three members.

Number of members of the Council present at the meeting: 5.