

MOSAKAHIKEN CREE NATION
(referred to as MCN)

BY-LAW RESPECTING CURFEW

BY-LAW NO. _____

Enacted on the 8th day of September ~~2007~~ 2009

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Preamble

WHEREAS the people of MCN have a right to public and private enjoyment of peace and tranquility and to security of the person and property;

AND WHEREAS the people of MCN are concerned about a variety of problems affecting children and youth on the reserve, including poor school attendance, poor school performance, substance abuse, noise and nuisance, vandalism, damage to property, and public enjoyment of peace and tranquility;

AND WHEREAS the people of MCN seek to combat such problems and promote family bonds and peace and tranquility in the community;

AND WHEREAS section 8 1 (c), (d), (q), and of the *Indian Act, R.S. C. 1985, Ch. 1-5* as amended empowers the Chief and Council of MCN to make bylaws for the observance of law and order, the prevention of disorderly conduct and nuisances, matters ancillary thereto and penalties for the violation thereof;

AND WHEREAS the Chief and Council of MCN, after due consultation with the people of MCN, is of the opinion that a curfew on the reserve, establishing prohibited hours, should be implemented for the welfare and safety of the children and other members of the community on the reserve;

THEREFORE, the Chief and Council of MCN enacts this By-Law as follows:

Short Title

1. This By-Law may be cited as the "MCN" Curfew By-Law No. _____

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Definitions

2. In this By-Law:

"Child" means any person who is under the age of majority.

"Community Social Event" means a wedding, winter carnival, sports event, religious celebration, or other social event recognized as such by the Chief and Council of the MCN and includes, inter alia, the MCN Winter Festival, and MCN Maytahway Days.

"Parent" means a father, mother, tutor, guardian or person having custody or care in law or in fact of a child.

"Officer" means any police officer, police constable or other person in charge with the duty to preserve and maintain the public peace, and a by-law officer or any other person appointed by the Council for the purpose of maintaining law and order on the reserve;

"Public Place" means any to which the public have access as of right or by invitation, express or implied and includes, without limiting the generality of the foregoing, the highways, streets, lanes and walk-ways, all public parks, all sporting facilities and any business enterprise on MCN reserve.

"Prohibited Hours" ordinarily means that period of time when a child is prohibited from being in a public place unaccompanied by a parent or guardian, as follows:

Age	Curfew Time
Under 12	10:00p.m. - 6:00a.m.
12-14	11:00p.m. - 6:00a.m.
15 - 17	12:00p.m. - 6:00a.m.

"Reserve" means the MCN reserve.

Prohibition

3. No Parent(s) shall permit his or her Child to be in any public place on the reserve during tht Prohibited hours unless such Child;

- a) is accompanied by his or her Parent(s)
- b) is accompanied by a person who is eighteen (18) years of age or over, with the authorization of that Child's parent(s);

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- c) is attending or is directly returning home from a community social event; or,
- d) is authorized by resolution of Council

Powers of Officer

4. A Officer who finds a child who is or, in the absence of evidence to the contrary, appears to be, under the age of 18 years in a public place on reserve during the Prohibited hours contrary to Section 3, may;
 - a) require the Child to produce identification of proof of age
 - b) warn such Child to immediately return to the Child's residence and;
 - c) if after so warning, the Child refuses or neglects to return to his or her residence forthwith, the Officer may use such reasonable force as is necessary to escort such Child to the Child's residence and the care of the Child's parent(s), or may arrest the Child, detain them as necessary, and return them to their Parent(s) as deemed appropriate; or;
 - d) if the Parent(s) cannot be found, escort the child to a Child and Family Services Worker, of the Cree Nation Child and Family Agency.

Notification of Parent(s)

5. A Officer who finds a Child in a public place during Prohibited Hours Contrary to Section 3, shall verbally or in writing, notify the Child's Parents that the Child was in breach of curfew, and shall advise of the time and place the breach was observed.
6. A Officer who finds a Child in a public place during Prohibited Hours contrary to Section 3, for a second and/or subsequent time within a thirty day period, shall serve a written notice on the Child's Parent(s) containing the following information;
 - a) the time and place of the breach;
 - b) the time and place of the previous breach;
 - c) a recommendation that the Child be more closely supervised;
 - d) a listing of the phone numbers and addresses of the Child and Family Services Agency;
 - e) information as to potential fines and penalties for breach of the By-Law.

Copies of this notice shall be forwarded to Child and Family Services Agency serving MCN and MCN justice committee.

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7. A Officer who finds a Child in a public place on Reserve during Prohibited Hours contrary to Section 3, for a third time and/or subsequent time, within thirty days of a second breach, shall provide a written notice to the Parent(s) or Guardian(s) of the Child in the form set out in Section 5, and shall request that representatives of the Child and Family Services Agency and/or MCN Justice committee interview the Child and the Parent(s) to determine if they require advice or assistance.

Meeting with Parents

8. The Chief and Council may direct, by way of resolution delivered by hand or sent by first class mail, any Parent(s) who has received two or more notices as set out in Section 6, to meet and discuss the situation with Chief and Council or any person, agency or body appointed by the Chief and Council through Band Council Resolution for that purpose.

Enforcement of By-Law

9. Every individual person shall comply with this By-Law, and with resolutions enacted pursuant to this By-Law.

Offences and Penalties

10. Any Parent(s) having care and control of a Child, who:
 - a) permits his or her Child to be in any public place during the Prohibited Hours, contrary to Section 3;
 - b) refuses to be interviewed by Child and Family Services contrary to Section 7; or;
 - c) fails, upon receiving notice of resolution, to meet with the Chief and Council or person, agency or body appointed by Chief and Council, contrary to Section 8;

Commits an offense and is liable, on summary conviction to a fine not exceeding \$1000.00 dollars or imprisonment for a term not exceeding 30 days, or both.
 - d) Conduct community service hours at the direction of the justice committee.

Power to Alter Curfew

- 11. Notwithstanding any other provision in this By-Law, the Chief and Council may, by way of valid Band Council Resolution alter or suspend the hours of curfew for any designated day or days.

Waiver

- 12. Where as Child, by reason or employment or family obligations, or other such reasons which the **Officer** deems good and sufficient, is required or likely to attend in public places on Reserve during Prohibited Hours, then the **Officer** may issue a permit of Waiver exempting the Child from the By-Law on such terms and conditions as the **Officer** may deem appropriate.

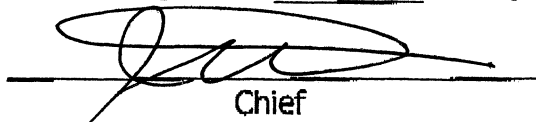
Severability

- 13. In the event that a court of competent jurisdiction or any other body with jurisdiction determines that nay provision herein is unlawful or beyond the jurisdiction of the council and/or the Government of Canada, said provision shall be severable from this By-Law shall remain in full force and effect.

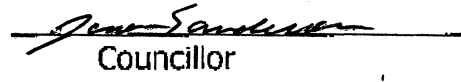
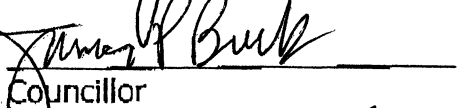
Amendment

- 14. This By-Law may be amended from time to time by Chief and Council of MCN, as it deems necessary, in accordance with the provisions of Sections 81 and 82 of the *Indian Act*.

PASSED AND ACCEPTED AT A DULY CONVENED MEMBERSHIP MEETING OF THE MOSAKAHKEN CREE NATION ON THE 8th DAY OF September, 2009


Chief

Councillor


Councillor
Councillor

Councillor


Councillor

Councillor

ELDERS COMMITTEE MEMBERS

Elder

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Elder

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Elder

I, _____ Chief of Mosakahiken Cree Nation do hereby certify that a true copy of the foregoing By-Law was forwarded to the Minister of Indian Affairs, pursuant to Section 82(1) of the Indian Act this _____ Day of _____, 2007.

Chief

Witness

