

**BY-LAW NO. 2003-600-CW  
OF THE ENOCH CREE NATION  
BEING A BY-LAW TO REPEAL AND REPLACE  
BY-LAW NUMBER 6 – CURFEW BY-LAW  
ENACTED ON THE 9th DAY OF DECEMBER 1971**

**WHEREAS** the Council of the Enoch Cree Nation desires to make a By-law respecting a curfew for the youth, with respect to any matters arising out of or ancillary to the exercise of powers under section 81, and for the imposition of a penalty for a violation thereof;

**AND WHEREAS** paragraphs 81 (1) (c), (d), (q) & (r) of the Indian Act, R.S.C., Ch 1-5, empowers the Council of a Band to make By-laws for the observance of law and order, the prevention of disorderly conduct, matters ancillary thereto, and a penalty for the violation thereof;

**AND WHEREAS** the Council of the Enoch Cree Nation is of the opinion that children and adolescents should not remain unattended and without adult supervision on the Enoch Cree Nation Reserve during the evenings, for the welfare and safety of the youth and also for the reserve community;

**AND WHEREAS** nothing in this by law shall deem to alter, diminish, derogate or abrogate Treaty Number 6, including the spirit and intent of our Treaty Rights and the inherent right as understood by the Elders of Treaty 6.

**AND WHEREAS** the Council of the Enoch Cree Nation did enact By-law number 6 on the 9<sup>th</sup> day of December, 1971, and wishes to repeal the said By-law number 6 and replace it with this By-law;

**THEREFORE**, the Council of the Enoch Cree Nation enacts this By-law as follows:

**SHORT TITLE**

1. This By-law may be cited as the “Enoch Cree Nation Reserve Curfew By-law”.

**INTERPRETATION**

2. In this By-law:

“adolescent” means any person between the ages of thirteen (13) and fifteen (15) years;

“agencies” includes the office of Enoch Child Welfare, the Enoch Justice Committee and Alberta Family and Social Services;

“child” means any person who is twelve (12) years of age and under;

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“committee” means any committee appointed by Band Council Resolution to perform committee duties as outlined by Council from time to time;

“community social event” means a wedding, winter carnival, sports event, religious celebration, cultural event or other social event recognized as such by the Council of the Enoch Cree Nation Band;

“emotionally injured” means if there is substantial and observable impairment of the child/adolescent’s mental or emotional functioning that is evidenced by a mental or behavioral disorder, including anxiety, depression, withdrawal, aggression or delayed development, and if there are reasonable and probable grounds to believe that the emotional injury is the result of:

- rejection
- deprivation of affection or cognitive stimulation
- exposure to domestic violence or severe domestic disharmony
- inappropriate criticism, threats, humiliation, accusations or expectations of or toward the child/adolescent
- the mental or emotional condition of the guardian of the child or chronic alcohol or drug abuse by anyone living in the same residence as the child/adolescent

“parent” means father, mother, tutor, guardian or person having the custody or care, in law or in fact, of a child or adolescent;

“peace officer” means any police officer, constable, or other person charged 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;

“prohibited hours” means that period of time between the hour of ten (10) o’clock p.m. in the evening of one day and the hour of six (6) o’clock a.m. in the morning of the following day;

“public place” means any area deemed accessible by the public;

“reserve” means the Enoch Cree Nation reserve (also known as the Stony Plain Indian Reserve no. 135 and also 135A).

“reasonable force” means as much force as is reasonably necessary

- (a) to prevent the commission of an offence:
  - (i) for which, if it were committed, the person who committed it might be arrested without warrant, and
  - (ii) that would be likely to cause immediate and serious injury to the person or property of anyone; or

- (b) to prevent anything being done that, on reasonable grounds, he/she believes would, if it were done, be an offence mentioned in paragraph (a)

### **PROHIBITION**

- 3. (1) No parent shall permit his/her child to be in any public place during the prohibited hours unless such child:
  - (a) is accompanied by his/her parent/guardian;
  - (b) is accompanied by a person who is eighteen (18) years of age or over, with the authorization of that child/adolescent's parent/guardian;
  - (c) is attending or is directly returning home from a community social event; or,
  - (d) is authorized by resolution of Council.
- (2) No parent shall permit his/her adolescent to be in any public place during the prohibited hours unless such adolescent:
  - (a) is accompanied by his/her parent/guardian;
  - (b) is accompanied by a person who is eighteen (18) years of age or over, with the authorization of that child/adolescent's parent/guardian;
  - (c) is attending or is directly returning home from a community social event; or,
  - (d) is authorized by resolution of Council.

### **POWERS OF THE PEACE OFFICER**

- 4. (1) A peace officer who finds a child who is or, in the absence of evidence to the contrary, appears to be under the age of thirteen (13) years, in a public place during the prohibited hours contrary to section 3 may warn such child immediately return to the child's residence and, if after so warning, the child refuses or neglects to return to his/her residence forthwith, the peace officer may use such reasonable force as is necessary to escort such child to the child's residence.
- (2) A peace officer who finds an adolescent who is or, in the absence of evidence to the contrary, appears to be under the age of sixteen (16) years, in a public place during the prohibited hours contrary to section 3 may warn such adolescent to immediately return to the adolescent's residence and, if after so warning, the adolescent refuses or neglects to return to his/her residence forthwith, the peace officer may use such reasonable force as is necessary to escort such adolescent to the adolescent's residence.

- (3) A peace officer shall notify the parents/guardians, in writing, that the child/adolescent was found in a public place during the prohibited hours, contrary to section 3, and was escorted home.
- (4) Upon an escort home as outlined in the above sections (1) and (2), if a peace officer determines a child or adolescent is in need of protective services, they shall call the office of the Enoch Child Welfare who is on duty. Protective services may be needed if there are reasonable and probable grounds to believe that the survival, security or development of the child or adolescent is endangered because of any of the following:
  - (a) the child or adolescent has been abandoned or lost;
  - (b) the guardian of the child or adolescent is dead and the child or adolescent has no other guardian;
  - (c) the guardian of the child or adolescent is unable or unwilling to provide the child or adolescent with necessities of life, including failing to obtain for the child or adolescent or to permit the child or adolescent to receive essential medical, surgical or other remedial treatment that has been recommended by a physician;
  - (d) the child or adolescent has been or there is substantial risk that the child or adolescent will be physically injured or sexually abused by the guardian of the child or adolescent;
  - (e) the guardian of the child or adolescent is unable or unwilling to protect the child or adolescent from physical injury or sexual abuse;
  - (f) the child or adolescent has been emotionally injured by the guardian of the child or adolescent;
  - (g) the guardian of the child or adolescent is unable or unwilling to protect the child or adolescent from emotional injury;
  - (h) the guardian of the child or adolescent has subjected the child or adolescent to or is unable or unwilling to protect the child from cruel and unusual treatment or punishment;
  - (i) the condition or behavior of the child or adolescent prevents the guardian of the child or adolescent from providing the child or adolescent with adequate care appropriate to meet the child's needs.

#### **MEETING WITH PARENTS**

5. (1) If, after the warning referred to in section 4 of this By-law, the warning is disregarded by the child/adolescent, or if the child/adolescent is found disobeying this By-law a second time within a period of thirty (30) days, the parents of such child/adolescent may be directed, by resolution of the Council, to meet and discuss the situation with any agency or committee or anyone appointed by the Council through Band Council Resolution for that purpose, as recommended by any agency, committee or anyone appointed by the Council.

- (2) A copy of the resolution of the Council referred to in section 5 (1) shall be sent by first class mail or hand delivered to the child/adolescent's parents or guardians not less than seven (7) full days prior to the proposed meeting.

### **OFFENCE AND PENALTY**

6. (1) After meeting with the Council or any other person appointed by Council, a parent who permits a child under the age of thirteen (13) to be in any public place during prohibited hours, contrary to section 3, commits an offence.
- (2) After meeting with the Council or any other person appointed by Council, a parent who permits an adolescent under the age of sixteen (16) to be in any public place during prohibited hours, contrary to section 3, commits an offence.
- (3) Every person who contravenes any of the provisions of this By-law is guilty of an offence and is liable on summary conviction to a fine of not more than an amount exceeding \$1000.00 or to imprisonment for a term of which does not exceed thirty (30) days, or to both fine and imprisonment.

### **SEVERABILITY**

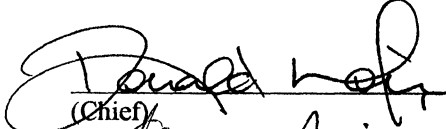

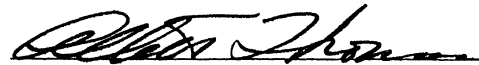
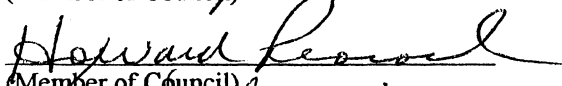
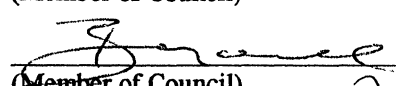
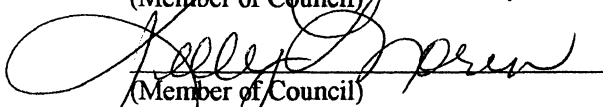
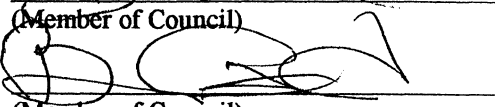
7. Should a court determine that a provision of this By-law is invalid for any reason, the provision shall be severed from the By-law and the validity of the rest or the By-law shall not be affected.

### **REPEAL**

8. By-law number 6 enacted on the 9<sup>th</sup> day of December, 1971, and being a By-law to regulate a curfew for children/adolescents, be and the same is hereby repealed.

**THIS BY-LAW IS HEREBY** made at a duly convened meeting of the Chief and Council of the Enoch Cree Nation this 15<sup>th</sup> day of November, 2003.

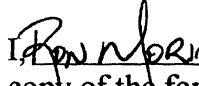
Voting in favor of the By-law are the following members of the Chief and Council:

 _____ (Chief)	_____ (Member of Council)
 _____ (Member of Council)	 _____ (Member of Council)
 _____ (Member of Council)	 _____ (Member of Council)
 _____ (Member of Council)	 _____ (Member of Council)


being the majority of those members of the Council of the Enoch Cree Nation present at the aforesaid meeting of the Council.

The quorum of the Council is 5 members.

Number of members of the Council present at the meeting: 7

I,  Chief/Councilor of the Enoch Cree Nation, do hereby certify that a true copy of the foregoing By-law was mailed to the Minister of Indian Affairs and Northern Development at the District/Regional/Hull office pursuant to subsection 82(1) of the Indian Act, this 18<sup>th</sup> day of November 2003.

  
\_\_\_\_\_  
(Witness)

  
\_\_\_\_\_  
(Chief/Councilor)