

York Factory First Nation COVID-19 Health Protection By-law
By-law No. 2021-12-01 of the York Factory First Nation

Being a By-law providing for special measures to respond to the serious and immediate threat to public health existing as a result of the COVID-19 pandemic

Enacted on the 6 day of December, 2021

WHEREAS:

The York Factory First Nation (hereafter “the First Nation”) has and exercises an inherent, Aboriginal and Treaty Right of self-determination that is recognized and affirmed by Articles 3, 4, 5, 34 and 35 of the United Nations Declaration on the Rights of Indigenous Peoples, Section 35 of the *Constitution Act, 1982* and is recognized, affirmed and protected by the terms of Treaty Number 5;

Whereas under section 81(1) of the *Indian Act, RSC 1985, c. I-5*, the First Nation as represented by the Council may make By-laws, not inconsistent with the *Indian Act* or with any regulation made by the Governor in Council or the Minister, for any or all of the following purposes:

- (a) to provide for the health of Residents on the Reserve and to prevent the spreading of contagious and infectious diseases;
- (b) the regulation of traffic;
- (c) the observance of law and order;
- (d) the prevention of disorderly conduct and nuisances;
- (n) the regulation of the conduct and activities of hawkers, peddlers or others who enter the Reserve to buy, sell or otherwise deal in wares or merchandise;
- (p) the removal and punishment of persons trespassing on the Reserve or frequenting the Reserve for prohibited purposes;
- (q) with respect to any matter arising out of or ancillary to the exercise of powers under this section; and
- (r) the imposition on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both, for violation of a By-law made under this section;

Whereas a contagious and infectious disease known as COVID-19 has been declared by the World Health Organization to be a global pandemic and has arrived in Manitoba;

Whereas the Chief Provincial Public Health Officer of Manitoba (CPHOM) has concluded that special measures are required to respond to the serious and immediate threat to public health existing as a result of the COVID-19 pandemic;

Whereas the Members, Residents and non-residents at the First Nation have been disproportionately impacted by past pandemics;

Whereas the Members, Residents and non-residents at the First Nation are disproportionately vulnerable to the impacts of COVID-19 as they are living or working in conditions which put them at an elevated risk of infection with COVID-19 disease, experience crowded multi-generational living which makes segregation of at-risk groups challenging, are subject to precarious supply chain, infrastructure, and health systems which are vulnerable to critical disruption, have widespread and high levels of underlying and existing health conditions, have low incomes in many households and have limited access to medical services which result in the First Nation being peculiarly and particularly vulnerable to an outbreak of COVID-19 disease;

Whereas COVID-19 poses a serious and immediate threat to the health, safety and lives of the people of the First Nation, and especially to Elders, people with underlying health conditions; and other vulnerable community members, and requires the urgent coordination of action and special regulation of persons, property and infrastructure to protect the health, safety, well-being and lives of Members, Residents and non-residents on the First Nation;

Whereas First Nations are experiencing outbreaks of COVID-19 on Reserve, including among Members and Residents who are fully vaccinated against COVID-19;

Whereas public health officials strongly recommend that COVID-19 testing occur before travel to First Nations and before someone returns to a community if a resident has been away for more than 48 hours;

Whereas public health officials also acknowledge that individual First Nations may have further testing guidance in place that should be followed for all people travelling into those communities, including those who are fully immunized;

Whereas Provincial health orders including but not limited to the Order Prohibiting Travel to Northern Manitoba and Remote Communities provide that no person shall travel into northern Manitoba or a remote community unless they meet certain exceptions under the Order and do not display any symptoms of COVID-19;

Whereas Provincial health orders including but not limited to the Order Prohibiting Travel to Northern Manitoba and Remote Communities prohibit a person who is required to self-isolate under the Self-Isolation Order for Persons Entering Manitoba from travelling into northern Manitoba or a remote community unless they have completed the required period of self-isolation;

Whereas certain Provincial health orders have prohibited travel by residents of a specific First Nation to that specific First Nation if they are displaying any symptoms of COVID-19;

Whereas the Keewatinohk Inniniw Minoayawin Inc. (KIM) and the First Nations Health and Social Secretariat of Manitoba (FNHSSM) have made recommendations to respond to the potential effect of the COVID-19 pandemic on First Nations in Manitoba, including on the First Nation, and Canada's Chief Public Health Officer (CPHOC) and the CPHOM have made recommendations and issued orders designed to prevent and reduce the spread of COVID-19 disease, including orders prohibiting travel into northern Manitoba and remote communities, requiring social (physical) distancing, the wearing of masks, limiting the size of gatherings and other measures;

Whereas the First Nation as represented by Chief and Council has an obligation to protect the Members of the First Nation, Residents and non-residents and particularly Elders, children, those Members and Residents with underlying health conditions and other vulnerable community members and must take urgent action to protect the First Nation from an outbreak of COVID-19 and to be prepared to respond should any outbreak of COVID-19 occur;

Whereas the First Nation as represented by Chief and Council conclude that the urgent measures of a temporary nature as set out in this By-law minimally impair the rights and freedoms of Members and Residents in a manner that is necessary and in proportion to the threat and consequences to the public health and safety of Members and Residents represented by a potential outbreak COVID-19 and are reasonably linked to the obligation, goal and authority of Council to control the spread of contagious and infectious diseases and to provide for the observance of law and order on the Reserve(s) of the First Nation so long as a serious and immediate threat to public health exists is in effect; and

Whereas the First Nation as represented by Chief and Council recognize that the nature and effective period of any urgent measure of a temporary nature as set out in this By-law may be varied through a duly enacted By-law to reflect, be in accordance with or be harmonized with the medical evidence available and with any Public Health Order in effect at the time of the implementation, variation or effective period of any measure under this By-law.

Now Therefore the Council of the First Nation at a duly convened meeting enacts the following By-law.

Part 1: Name

1.1 This By-law may be cited as the York Factory First Nation COVID-19 Health Protection By-law;

Part 2: Publication

2.1 Upon enacting this By-law, Council shall:

(a) Publish this By-law in the *First Nations Gazette*;

2.2 Upon enacting this By-law, Council may:

- (a) Post this By-law on an Internet site maintained by the First Nation, to remain at least until such date that it expires or is repealed;
- (b) Post this By-law in a public area in the First Nation Administration Building including a notice containing:
 - i. The date on which this By-law is in force;
 - ii. The time period in which this By-law will remain in force; and
 - iii. A summary of this By-law
- (c) Provide a copy of this By-law as soon as reasonably possible to the Peace Officers, First Nation Safety Officers and By-law Enforcement Officers who are enforcing this By-law, to Public Prosecutions of Canada (Manitoba Regional Office), and to common carriers serving the First Nation, as well as to the Pandemic Coordinator, the Nursing Station and the Health Centre.

Part 3: Interpretation

"Business" means:

- a) a retail store or other commercial establishment;
- b) an office building;
- c) a day care centre or nursery;
- d) a restaurant; and
- e) any other analogous establishments.

"Council" means the Council of the First Nation;

"COVID-19 Disease" means infection of persons with the SARS-CoV-2 virus;

"Curfew Hours" means the time period that all Residents must be inside their residence or other indoor location as may be designated and approved in advance by the Council through this By-law as it may be amended;

"Emergency" means for the purpose of s. 6.14 of this By-law, a serious and immediate threat to public health because of an epidemic or threatened epidemic of a communicable disease in circumstances where the threat to public health cannot be prevented, reduced or eliminated without taking special measures;

"Essential Service" means those services and functions considered essential to preserving life, health, law and order, and basic functioning of society, including but not limited to, the functions performed by the emergency and first responders, health care workers, critical infrastructure workers, transportation and utilities workers, and workers essential to supply critical goods such as food and medicines;

“First Nation By-law Enforcement Officer” means a person appointed by the Council under section 81(1)(c) and 81(1)(q) of the *Indian Act*;

“First Nation Organization” means the Keewatinohk Inniniw Minoayawin Inc, the First Nations Health and Social Secretariat of Manitoba, Inc., the Manitoba Keewatinowi Okimakanak, Inc., the Keewatin Tribal Council and the Assembly of Manitoba Chiefs;

“First Nation Safety Officer” means a First Nation Safety Officer within the meaning of *The Police Services Act*, C.C.S.M. c. P94.5, part 7.2, as amended, and appointed by the First Nation further to a First Nation Safety Officer Operating Agreement.

“First Nation Safety Officer Operating Agreement” means the Operating Agreement for a First Nation Safety Officer Program between The Government of Manitoba, as represented by the Minister of Justice and Attorney General of Manitoba, the Royal Canadian Mounted Police (RCMP) and the First Nation in accordance with Part 7.2 of *The Police Services Act*, as amended or extended;

“Fully Vaccinated Against COVID-19” means a person who:

(a) has received two doses of the Pfizer-BioNTech, Moderna or AstraZeneca/COVISHIELD vaccine for COVID-19 disease or two doses of any combination of those vaccines within a 16-week period and at least 14 days have passed since they received their last vaccine dose; or

(b) has received the Janssen COVID-19 vaccine and at least 14 days have passed since they were vaccinated;

“Gathering” means a grouping of persons in general proximity to each other who have assembled for a common purpose or reason and includes a wedding, funeral, reception or banquet, but does not include:

(a) a gathering in which all persons reside at the same private residence; and

(b) a gathering of employees at a business or facility or persons who are working at a worksite.

“Indoor Public Place” means any of the following:

- a) common areas of a residential building;
- b) a health care facility;
- c) an educational institution or facility;
- d) an enclosed place, other than a private residence, in which a private function is being held;
- e) a private club to which a member or invited person has access;
- f) a community centre;
- g) an indoor arena or hockey rink;
- h) a motor vehicle used for the public transportation of persons or property such as a bus, taxi or other vehicle for hire; or
- i) any other analogous indoor public places.

“Lockdown” means a declaration issued by the Council through a Schedule enacted as an amendment to and which forms a part of this By-law which requires all persons on the Reserve, except for those providing Essential Services as designated by Council in the Schedule, to remain inside their own residence or inside another indoor location designated and approved in advance by the Council during all hours of the day and during which Lockdown no persons, including Members and Residents, shall be permitted to enter the Reserve except for those persons and for such purposes as are expressly identified by Council in a Schedule forming part of this By-law;

“Member” means a person whose name appears on the membership list of the First Nation or who is entitled to have their name appear on the membership list of the First Nation;

“MKO First Nations Justice Strategy Program” means the Program established through the Contribution Agreement for the MKO First Nations Justice Strategy Program (2021-2022) between The Government of Manitoba, as represented by the Minister of Justice and Attorney General of Manitoba and the Manitoba Keewatinowi Okimakanak Inc.;

“Pandemic Coordinator” means the person or persons designated by Council to provide forms, receive and provide reports of persons who are self-isolating and report persons who are suspected, have self-reported or are confirmed to be infectious with COVID-19 disease in a manner consistent with their obligation to respect, protect and maintain the confidentiality of personal health information;

“Peace Officer” means the Royal Canadian Mounted Police (RCMP), a First Nation Safety Officer within the meaning of *The Police Services Act*, part 7.2, as amended, and appointed by the First Nation further to a First Nation Safety Officer Operating Agreement including but not limited to s. 19 and 22, and any officer or person appointed or recognized as have the powers and protections of a Peace Officer under the common law, an act of Parliament or an act of the Legislative Assembly of Manitoba;

“Permitted Person” for the purpose of access and travel to the Reserve within the meaning of sections 6.1(a) and 6.5(a) means:

(a) a Member;

(b) a Resident of the Reserve;

(c) a person who is travelling to the First Nation in order to establish their permanent residence, if they are not displaying any Signs and Symptoms of COVID-19 or they provide a medical certificate certifying their Signs and Symptoms are not related to COVID-19;

(d) a person travelling into the First Nation in the course of their duties with, or while providing services to or on behalf of,

(i) a First Nation Organization providing health services to First Nations in Manitoba or other essential services at the request of the First Nation;

(ii) the Government of Canada;

- (iii) the Government of Manitoba; or
- (iv) a Crown corporation or other government agency

if they are not displaying any Signs and Symptoms of COVID-19 or they provide a medical certificate certifying their Signs and Symptoms are not related to COVID-19;

(e) a health care provider who is travelling to the First Nation to provide health care services, if they are not displaying any Signs and Symptoms of COVID-19 or they provide a medical certificate certifying their Signs and Symptoms are not related to COVID-19;

(f) a person who is travelling into the First Nation to conduct or assist the conduct of a ceremonial or religious practice or event consistent with 6.9 of this By-law, if the person is not displaying any Signs and Symptoms of COVID-19 or they provide a medical certificate certifying their Signs and Symptoms are not related to COVID-19;

(g) a professor, teacher or other educational professional who is travelling into the First Nation to teach, train or otherwise provide education programming or work at a post-secondary educational institution or a school, if they are not displaying any Signs and Symptoms of COVID-19 or they provide a medical certificate certifying their Signs and Symptoms are not related to COVID-19;

(h) a person who is travelling to the First Nation to attend classes or obtain instruction or training at a post-secondary educational institution or a school, if they are not displaying any Signs and Symptoms of COVID-19 or they provide a medical certificate certifying their Signs and Symptoms are not related to COVID-19;

(i) a person who owns, operates or is employed by a business who is travelling to the First Nation

- (i) to deliver goods or provide services normally provided by that business, or
- (ii) to engage in activities that the business normally conducts in the First Nation; and
- (iii) to operate a common carrier service;

if they are not displaying any Signs and Symptoms of COVID-19 or they provide a medical certificate certifying their Signs and Symptoms are not related to COVID-19;

(j) a person who is travelling into the First Nation

- (i) to facilitate shared parenting arrangements under a custody order or agreement; or
- (ii) in the course of their duties with a child and family services authority, along with any child travelling with the person;

if they are not displaying any Signs and Symptoms of COVID-19 or they provide a medical certificate certifying their Signs and Symptoms are not related to COVID-19;

- (k) a person who is travelling into the First Nation for an emergency medical purpose;
- (l) a person who is travelling into the First Nation for the purpose of participating in a trial or other judicial proceeding, if they are not displaying any Signs and Symptoms of COVID-19 or they provide a medical certificate certifying that their Signs and Symptoms are not related to COVID-19;
- (m) a person who is travelling into the First Nation to perform an essential service as defined in this By-law and who is not displaying any Signs and Symptoms of COVID-19 or provides a medical certificate certifying their Signs and Symptoms are not related to COVID-19;
- (n) a person who is travelling to the First Nation to visit a family member or friend who is in a health care facility with a life-threatening illness or injury if the health care facility and Council have authorized the visit and who is not displaying any Signs and Symptoms of COVID-19 or provides a medical certificate certifying their Signs and Symptoms are not related to COVID-19;
- (o) a person who is travelling to the First Nation to provide care to a family member or friend who is seriously ill but is not in a health care facility if Council has authorized the visit and who is not displaying any Signs and Symptoms of COVID-19 or provides a medical certificate certifying their Signs and Symptoms are not related to COVID-19;
and
- (p) any other persons in a special circumstance analogous to (c)-(o) who are not displaying any Signs and Symptoms of COVID-19 or who provides a medical certificate certifying their Signs and Symptoms are not related to COVID-19.

“Rapid COVID-19 Test” means

- (a) the Abbott PanBio COVID-19 antigen test;
- (b) the BD Veritor COVID-19 antigen test;
- (c) the Lucira Check it COVID-19 Test Kit; and
- (d) any other test for COVID-19 approved by the Chief Provincial Public Health Officer of Manitoba, the Governor in Council or included in a Schedule duly enacted and which forms a part of this By-law;

“Reserve” means all those lands set apart by Canada for the use and benefit of the First Nation in accordance with the terms of Treaty No. 5;

“Resident” means those persons living on Reserve, or entitled to live on the Reserve, including a Member, their spouse or common law partner and dependent children or any other person authorized by Council to live on the Reserve;

“Self-isolation” means a requirement for a person to remain in their residence or a location approved by Council except to attend an appointment with a health care

provider if it cannot be postponed or conducted remotely or to receive urgent or emergency care;

"Signs and Symptoms of COVID-19" means fever, sore throat, coughing and sneezing, a fever and a cough, or a fever and difficulty breathing. as and may include any other condition identified as a sign or symptom of COVID-19 by the Chief Provincial Public Health Officer of Manitoba and any order issued by the Governor and Council;

"Trespass" means the entry onto, or the presence on, the reserve by a person without lawful justification.

Part 4: Authorization and Application

4.1 Pursuant to its inherent Indigenous and Treaty Right of self-determination and to the authority pursuant to sections 81(1)(a)(b)(c)(d)(n)(p)(q)(r) of the *Indian Act*, the First Nation hereby enacts this York Factory First Nation COVID-19 Health Protection By-law.

4.2 This By-law applies to the Reserves of the First Nation.

4.3 This By-law applies to all persons on the Reserve, including Members, Residents and non-residents of the Reserve.

Part 5 Enforcement

5.1 Pursuant to section 81(1)(a)(b)(c)(d)(p) and (q) and 103(1) of the *Indian Act*, a Peace Officer or a First Nation Safety Officer may:

- a) where they have reasonable grounds to believe an offence has been or is being committed, stop a person or vehicle for the purposes of monitoring, confirming and enforcing compliance with this By-law;
- b) where they have reasonable grounds to believe that a gathering is occurring at a residence in violation of sections 6.7(a), (b), 6.9(a)-(d) or 6.10(a)-(d) of this By-law, warn all persons attending the gathering to comply with section 6.7(a), (b), 6.9(a)-(d), or 6.10(a)-(d) of this By-law;
- c) where persons attending a gathering refuse to comply with a warning under section 5.1(b), search a residence for the purposes of monitoring, confirming, and enforcing compliance with gathering restrictions in section 6.7(a), (b), 6.9(a)-(d), or 6.10(a)-(d);
- d) attend a residence for the purposes of monitoring, confirming and enforcing compliance with:
 - (i) curfew requirements in section 6.13(a) of this By-law; and self-isolation and Rapid COVID-19 Test requirements in sections 6.3(b)(i) and (ii) and 6.15(a)(ii) of this By-law;
 - (ii) the requirements of a Lockdown under 6.14(a)(i) and (ii);
- e) where they have reasonable grounds to believe that an offence has been or is being committed, attend and enter a business for the purposes of monitoring, confirming and enforcing compliance with:

- (i) the occupancy restrictions in section 6.12(a); and
 - (ii) the social distancing restrictions in 6.12(b);
- e) attend a business for the purposes of monitoring, confirming, and enforcing compliance with
 - (i) the hours of operation in section 6.11(a); and
 - (ii) the requirements of a Lockdown under 6.14(a)(i); and
- f) where they have reasonable grounds to believe that an offence has been or is being committed, arrest a person to ensure the health of residents on the reserve, to prevent the spread of contagious and infectious diseases, and maintain the observance of law and order.

5.2 A Pandemic Coordinator who has been designated and appointed by Council may provide forms for the purposes of this By-law, receive and provide to the Nursing Station, the Health Centre, Peace Officers, First Nation Safety Officers and By-Law Enforcement Officers information about and reports of persons who are self-isolating, have self-reported or are suspected or confirmed to have contracted COVID-19 disease in a manner consistent with their obligation to respect, protect and maintain the confidentiality of personal health information.

Part 6: Requirements and Offences

Travel to the Reserve:

6.1 Pursuant to Section 81(1)(a), (b), (c), (n), (p), (q), and (r) of the *Indian Act*:

- a) Subject to the requirements of this By-law, only a Permitted Person shall enter the Reserves of the First Nation while this By-law is in effect; and
- b) Every person who is on the Reserve without lawful justification in accordance with section 6.1(a) is deemed to be trespassing and guilty of an offence punishable on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both.

Leaving the Reserve

6.2 Pursuant to Section 81(1)(a), (b), (c), (q), and (r) of the *Indian Act* a Member or Resident that leaves the Reserve may be refused re-entry to the Reserve pursuant to section 6.4.

- a) Council may amend section 6.2 through a Schedule duly enacted as an amendment to and which forms a part of this By-law.

Members and Residents Returning to the Reserve and not displaying Signs and Symptoms of COVID-19

6.3 Pursuant to Section 81(1)(a), (b), (c), (p), (q), and (r) of the *Indian Act*:

- a) A Member or Resident shall return to the Reserve only as permitted in this By-law.
- b) A Member or Resident returning to the Reserve and not displaying Signs and Symptoms of COVID-19, must
 - (i) Self-isolate for at least 14 days; or
 - (ii) Take a Rapid COVID-19 test at a nursing station or health centre to confirm that the Member or Resident is negative for COVID-19; or
 - (iii) Demonstrate they have taken a Rapid COVID-19 test within the previous 72 hours confirming the Member or Resident is negative for COVID-19; and
- c) Every person who returns to the Reserve in violation of s. 6.3(a) or (b) is guilty of an offence punishable on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both.

Members and Residents displaying Signs and Symptoms of COVID-19 seeking to access the Reserve

6.4 Pursuant to Section 81(1)(a), (b), (c), (q), and (r) of the *Indian Act*:

- a) A Member or Resident shall not return to the Reserve if displaying Signs and Symptoms of COVID-19;
- b) For the purpose of 6.4(a), Member or Resident can access the Reserve if they can demonstrate they have taken a Rapid COVID-19 test within the previous 72 hours confirming the Member or Resident is negative for COVID-19 or they provide a medical certificate certifying their Signs and Symptoms are not related to COVID-19;
- c) Where a Member or Resident is unable to comply with section 6.4(b), the Pandemic Coordinator will facilitate access by a Resident seeking to return to the Reserve and who is displaying Signs and Symptoms of COVID-19 to an alternative isolation facility operated by a public health authority; and
- d) Every person who returns to the Reserve or comes onto the Reserve in violation of s. 6.4(a) is guilty of an offence punishable on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both.

Masks

6.5 Pursuant to Section 81(1)(a), (c), (q), and (r) of the *Indian Act*:

- a) All Members, Residents, non-residents and Permitted Persons must wear a mask in an Indoor Public Place or a Business except where a person is:
 - (i) unable to put on or take off the mask without assistance due to age, ability or developmental status;
 - (ii) actively having breathing difficulties;

- (iii) a child under the age of five; or,
- (iv) needs to temporarily remove their mask while in the indoor public place for the purpose of (i) receiving a service that requires the removal of their mask, (ii) consuming food or drink, (iii) an emergency or medical purpose, or (iv) establishing their identity; and

b) Every person who fails to wear a mask in accordance with s. 6.5(a) is guilty of an offence punishable on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both.

Social Distancing

6.6 Pursuant to Section 81(1)(a), (c), (d), (q), and (r) of the *Indian Act*:

- a) All Members, Residents, non-resident persons and Permitted Persons must maintain a separation of at least two metres from other persons whenever possible, unless:
 - (i) The Member, Resident or non-resident person requires assistance from a family member or care-giver;
 - (ii) The Member, Resident or non-resident person are travelling in a vehicle; or
 - (iii) The Member, Resident or non-resident ordinarily reside in the same household;
- b) As otherwise authorized by Council or a person designated by Council in a Schedule duly enacted to and which forms a part of this By-law; and
- c) Every person who fails to maintain social distancing measures in accordance with section 6.6(a) is guilty of an offence punishable on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both.

Gatherings in Residences

6.7 Pursuant to Section 81(1)(a), (c), (d), (q), and (r) of the *Indian Act*:

- a) A person who resides in a private household must not permit any person who does not ordinarily reside in that household to enter or remain in the household unless otherwise provided in a Schedule duly enacted and which forms part of this By-law;
- b) An outdoor gathering may be held on the property on which a private residence is located that involves occupants of that residence and no more than 10 other persons unless otherwise provided in a Schedule duly enacted and which forms part of this By-law;
- c) Sections 6.7(a) and 6.7(b) do not apply to the Permitted Persons (c), (d), (e), (j), (m) and (o);

- d) Sections 6.7(a) or (b) do not apply to persons who have taken a Rapid COVID-19 test within 72 hours;
- e) Council may designate persons or numbers of persons to which sections 6.7(a) or (b) do not apply through a Schedule duly enacted as an amendment to and which forms a part of this By-law; and
- f) Every person who gathers in a private residence in violation of sections 6.7(a) or (b), as may be varied through an amendment to this By-law, is guilty of an offence punishable on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both.

Gatherings in Public

6.8 Pursuant to Section 81(1)(a), (c), (d), (q) and (r) of the *Indian Act*:

- a) Persons are prohibited from assembling at a gathering involving more than 25 persons or 25% of the usual capacity of the premises including as determined by *The National Fire Code*, whichever is lower, at any Indoor Public Place,
- b) Persons from different households are prohibited from assembling at a gathering involving more than 50 persons at an outdoor place;
- c) Council may vary sections 6.8(a) or (b) and designate the number of persons who may gather in a group at any Indoor Public Place or outdoor place through a Schedule duly enacted as an amendment to and which forms a part of this By-law; and
- d) Every person who gathers in public in violation of sections 6.8(a) or (b), as they may be varied, is guilty of an offence punishable on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both.

Ceremonial and Religious Gatherings

6.9 Pursuant to Section 81(1)(a), (c), (d), (q), and (r) of the *Indian Act*:

- a) A person other than a resident of a private residence must not gather for ceremonial or religious ceremony inside a private residence unless otherwise provided in a Schedule duly enacted and which forms part of this By-law;
- b) A ceremonial or religious ceremony on the property of a private residence may involve the occupants of that residence and no more than 10 other persons unless otherwise provided in a Schedule duly enacted and which forms part of this By-law;
- c) A ceremonial or religious gather at an Indoor Public Place may involve up to 25 persons or 25% of the usual capacity of premises including as determined by *The National Fire Code* ,whichever is lower, so long as measures are implemented to ensure that all persons attending are reasonably able to maintain a separation of at least two meters from other persons at the ceremonial or religious gathering and so long as no person is displaying Signs and Symptoms

of COVID-19, or a person has taken a Rapid COVID-19 test as may be required by Council in accordance with 6.9(e);

- d) A ceremonial or religious gathering at an outdoor place may involve no more than 50 persons so long as no person is displaying Signs and Symptoms of COVID-19, or a person has taken a Rapid COVID-19 test as may be required by Council in accordance with 6.9 (e);
- e) Council may vary sections 6.9(a)-(d) and designate the number of persons which may gather at a ceremonial or religious gathering as well as measures to prevent the spread of COVID-19 disease through a Schedule duly enacted as an amendment which shall form a part of this By-law; and
- f) Every person who attends a ceremonial or religious gathering in violation of sections 6(9)(a)-(d) as they may be varied), is guilty of an offence punishable on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both.

Funerals

6.10 Pursuant to Section 81(1)(a), (c), (d), (q), and (r) of the *Indian Act*:

- a) A person other than a resident of a private residence must not gather for a funeral ceremony inside a private residence unless otherwise provided in a Schedule dully enacted and which forms part of this By-law;
- b) A funeral on the property of a private residence may involve the occupants of that residence and no more than 10 other persons unless otherwise provided in a Schedule dully enacted and which forms part of this By-law;
- c) A funeral at an Indoor Public Place may involve up to 25 persons or 25% of the usual capacity of premises including as determined by *The National Fire Code*, whichever is lower, so long as measures are implemented to ensure that all person attending are reasonably able to maintain a separation of at least two meters from other persons at the funeral and so long as no person is displaying Signs and Symptoms of COVID-19, or a person has taken a Rapid COVID-19 test as may be required by Council under 6.10(e);
- d) A funeral at an outdoor place may involve no more than 50 persons so long as no person is displaying Signs and Symptoms of COVID-19, or a person has taken a Rapid COVID-19 test as may be required by Council in accordance with 6.10(e);
- e) Council may vary sections 6.10(a)-(d) and designate the number of persons which may gather at a funeral as well as measures to prevent the spread of COVID-19 disease through a Schedule duly enacted as an amendment to and which forms a part of this By-law; and
- f) Every person who gathers at a funeral in violation of sections 6.10(a)-(d), as may be varied, is guilty of an offence punishable on summary conviction of a fine not

exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both.

Hours of Business

6.11 Pursuant to Section 81(1)(a), (c), (n), (q), and (r) of the *Indian Act*:

- a) A business on the Reserve may be open for business between the hours designated by Council through a Schedule duly enacted as an amendment to and which forms a part of this By-law setting out the hours of the day that a business may be open; and
- b) Every owner of a business who violates s 6.11(a) is guilty of an offence punishable on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both.

Occupancy of Business

6.12 Pursuant to Section 81(1)(a), (c), (n), (q), and (r) of the *Indian Act*:

- a) The Council may designate the occupancy of a business through a Schedule duly enacted as an amendment to and which forms a part of this By-law setting out either or both of the percentage of the usual capacity of the business or an absolute maximum number of persons permitted to attend the business, as Council determines are appropriate in the circumstances;
- b) A business may be open during the hours of the day designated by Council under section 6.11(a) if the operator of the business:
 - (i) limits the number of members of the public at the business to the occupancy of the business identified by Council in a Schedule duly enacted as an amendment to and which forms a part of this By-law; and
 - (ii) implements measures to ensure that members of the public at the business are reasonably able to maintain a separation of at least two metres from other members of the public;
- c) Every business owner that exceeds the occupancy restrictions under sections 6.12(b)(i) or the social distancing requirements under 6.12(b)(ii) is guilty of an offence punishable on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both.

Curfew Hours

6.13 Pursuant to Section 81(1)(a), (b), (c), (d), (n), (p), (q), and (r) of the *Indian Act*:

- a) The Council may designate and enact through a Schedule duly enacted as an amendment to and which forms a part of this By-law the hours of the day in which every person on the Reserve, other than those persons providing Essential Services as designated by Council in the Schedule, shall be and remain inside

their own residence or inside another indoor location designated and approved in advance by the Council;

- b) Every person on the Reserve shall be and remain inside their own Residence or inside another indoor location designated and approved in advance by the Council during the hours of the day identified in the Schedule; and
- c) A Resident or non-resident who violates s. 6.13(a) or (b) is guilty of an offence punishable on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both.

Lockdown

6.14 Pursuant to Section 81(1)(a), (b), (c), (d), (n), (p), (q), and (r) of the *Indian Act*:

- a) In the event of the determination by Council that an emergency exists or may exist in relation to an outbreak or a potential outbreak of COVID-19 disease on the Reserve, the Council may enact as a Schedule duly enacted as an amendment to and which forms a part of this By-law a declaration of a Lockdown which, when declared:
 - (i) requires all persons, other than those persons providing Essential Services as designated by Council in the Schedule, to remain inside their own Residence or inside another indoor location designated and approved in advance by the Council during all hours of the day until such time as the declaration of a Lockdown expires as set out in any Schedule to this By-law, or is rescinded in an amended Schedule to this By-law;
 - (ii) Prohibits every person, including Residents, from entering and coming onto the Reserve except for those persons expressly identified by Council in a Schedule enacted as an amendment to and which forms a part of this Bylaw as being permitted to enter and come onto the Reserve;
- b) Any person who violates section 6.1(a)(i) or (ii) is guilty of an offence punishable on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both.

Non-residents on the Reserve in Contravention of this By-law

6.15 Pursuant to section 81(1)(p), (q) and (r) of *The Indian Act*:

- a) non-residents of the Reserve who are determined by a First Nation Safety Officer or a Peace Officer to be in contravention of this By-law may be deemed to be trespassing and shall be ordered by the First Nation Safety Officer or the Peace Officer to leave the Reserve immediately, in addition to being subject to the applicable penalty for the contravention and offence; and
- b) Should the person so ordered in accordance with section 6.15 (a) fail to leave the Reserve, then the First Nation Safety Officer or the Peace Officer shall

immediately take steps to remove the person from the Reserve, in addition to the person being subject to the applicable penalty for the contravention and offence.

Persons with Signs and Symptoms of COVID-19

6.16 Pursuant to Section 81(1)(a), (c), (q), and (r) of the *Indian Act*:

- a) Persons with Signs and Symptoms of COVID-19 must report themselves to the Nursing Station or Health Centre and Pandemic Coordinator if they experience Signs and Symptoms of COVID-19 where they will be offered a Rapid COVID-19 test;
- b) If the person displaying Signs and Symptoms tests positive for COVID-19 or refuses to undertake a Rapid COVID-19 test, they:
 - (i) Must return to their Residence and remain there except to attend an appointment with a health care provider if it cannot be postponed or conducted remotely and for urgent or emergency care;
 - (ii) Must Self-Isolate for 14 days, or 24 hours after their Signs and Symptoms of COVID-19 have fully resolved, whichever is longer;
 - (iii) Must not leave their Residence for food, essential supplies or medicines as Council, the Pandemic Coordinator, or a person designated by the Council will make arrangements with the person for delivery to the Residence of the person of food, essential supplies and medicines;
 - (iv) Must be isolated from others within a Residence to the greatest extent possible; and
 - (v) Must wear protective hand and face coverings (i.e.: gloves, scarves, and/or face masks) if required to leave the Residence for emergency care, testing or assessment.
- c) A First Nation Safety Officer or Peace Officer or the Pandemic Coordinator may advise a person displaying signs and symptoms of COVID-19 to:
 - (i) maintain a distance of at least two (2) meters from other individuals in a residence where possible;
 - (ii) maintain regular electronic communication with the Pandemic Coordinator or other Public Health Officials designated in this By-law or a Public Health Order regarding the status and progress of any Signs and Symptoms of COVID-19 and if means of electronic communication are not available, by such other means as are identified in a Schedule duly enacted by an amendment to and which forms a part of this By-law;
 - (iii) wash their hands regularly with hot, soapy water for at least 20 seconds, and immediately whenever returning to a Residence; and
 - (iv) sanitize and disinfect common areas as recommended and as necessary;

- d) The Pandemic Coordinator must make arrangements for the person to attend the Nursing Station or nearest emergency service provider if their Signs and Symptoms of COVID-19 are worsening to a point where they cannot remain safely at home;
- e) Every person who contravenes s. 6.16(b)(i), (ii), (iii), (iv), or (v) is guilty of an offence punishable on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both; and
- f) Sections 6.16(b) and(c) do not apply to persons with signs and symptoms of COVID-19 if the person can demonstrate they have taken a Rapid COVID-19 test within the previous 72 hours confirming the person is negative for COVID-19.

Restorative Justice

7.1 Pursuant to Section 81(1)(a), (c), (r) and (q) of the *Indian Act* and in keeping with the principles and objectives of the MKO First Nations Justice Strategy Program which provides the MKO First Nation communities with an alternative program that supports court diversions from the traditional court system for youth and adults facing criminal charges:

- (a) all offences by a Member under this By-law shall be examined in accordance with the principles and objectives of the MKO First Nations Justice Strategy Program regarding the appropriate penalties for the offence and to determine whether to:
 - (i) undertake restorative justice measures consistent with the MKO First Nations Justice Strategy Program; or
 - (ii) pursue a summary conviction and impose penalties in accordance with the applicable provision of this By-law.

Amendment and Extension

8.1 This By-law may be amended, including, without limitation, to extend the effective period of this By-law and to vary any restrictions and requirements in this By-law, by a quorum of Council at a duly convened meeting of Council. Council will promptly post and distribute the amended By-law in accordance with s. 2.1 of this By-Law.

Conflict of Laws

9.1 To the extent of any inconsistencies with previously enacted By-laws of the First Nation or provincial laws of general application, this York Factory First Nation COVID-19 Health Protection By-law shall prevail.


9.2 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 of the By-Law shall not be affected.

Effective Date and Term


10.1 This York Factory First Nation COVID-19 Health Protection By-law comes into force on the day on which it is first published in the First Nations Gazette and shall remain in force for 120 days, unless this By-law is terminated or the term of this By-law is reduced or extended by Council though the repeal of or an amendment to this By-law including by a Schedule duly enacted as an amendment to and which forms a part of this Bylaw.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the First Nation this 6 day of December, 2021.

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




(Member of the Council)




(Member of the Council)



(Member of the Council)



(Member of the Council)



(Member of the Council)

(Member of the Council)

(Member of the Council)

(Member of the Council)

being the majority of those members of the Council of the York Factory First Nation present at the aforesaid meeting of the Council.

The quorum of the Council is 3 members.

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

I, Chief Leroy Constant of the York Factory First Nation, do hereby certify that a copy of the foregoing By-law was published on the *First Nations Gazette*, pursuant to subsection 86(1) of the *Indian Act*, on the 15 day of December, 2021.



(Witness)

Louisa Constant, Councillor

(Print name)



(Chief/Councillor)

Leroy Constant, Chief

(Print name)