

95/96-299 42/6-00188

# GULL BAY FIRST NATION

GULL BAY, ONTARIO  
P0E 1P0  
6662 '95 OCT 18 PHONE (807) 982-2101  
(HAND DELIVERED) FAX (807) 982-2290

## BY-LAW RESPECTING CURFEW

### BY-LAW No. 1995-01

**Whereas** the citizens of Gull Bay First Nation have, collectively, the inherent right to govern themselves on their traditional and ancestral territories as provided by the Creator, that this fundamental right has always rested with our people, and that the inherent right of self determination is an existing aboriginal and treaty right recognized and affirmed under section 35 of the *Constitution Act, 1982*;

**And whereas** the exercise of the inherent right of self determination involves, amongst other things, the enactment of laws and regulations for the maintenance of social order and quality of life on reserve;

**And whereas** the Council of Gull Bay First Nation desires for the better government of the First Nation and for the health, welfare and safety of the First Nation to enact a curfew by-law for the welfare and safety of the children and the community on reserve;

**And whereas** paragraphs 81(1)(c), (d), (q) and (r) of the *Indian Act*, R.S.C. 1985, c. I-5, as amended, hereinafter referred to as the "*Indian Act*", empowers the Council of a First Nation to make by-laws for the observations of law and order, the prevention of disorderly conduct, matters ancillary thereto, and a penalty for the violation thereof;

**Be it therefore resolved**, that the Council of Gull Bay First Nation at a duly convened meeting enacts the following by-law in an express exercise of its rights pursuant to the inherent right of self determination and section 81 of the *Indian Act*.

#### SHORT TITLE

1. This bylaw may be cited as the "*Gull Bay First Nation Curfew By-law*".

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**INTERPRETATION**

2. In this bylaw:

"*adult*" means any person 18 years of age or older;

"*child*" means any person under the age of 16 years;

"*community social event*" means a wedding, winter carnival, sports event, religious celebration, or other social event recognized as such by the Council of Gull Bay First Nation;

"*Council*" means the Council of Gull Bay First Nation, a council of the band as defined in section 2(1) of the *Indian Act*;

"*First Nation*" means the Gull Bay First Nation, an Indian band as defined in section 2(1) of the *Indian Act*;

"*normal residence*" means that residence where the child normally resides with his or her parent;

"*officer*" means any peace officer as defined in section 2 of the *Criminal Code of Canada*, R.S.C. 1985, c. C-46, as amended; or other person charged with the duty to preserve and maintain the public peace, and any by-law enforcement officer or other person appointed by Council for the purpose of maintaining law and order on reserve, pursuant to such by-laws as have been or may be enacted from time to time by Council;

"*parent*" means a mother, father, guardian or person having custody or care in law or in fact of a child;

"*prohibited hours*" means:

- i. for the months of September to June of each year, that period of time:
  - (1) between the hour of ten o'clock in the evening of one day and the hour of six o'clock in the morning of the following day for Sunday to Thursday of each week, and
  - (2) between the hour of eleven o'clock in the evening of one day and the hour of six o'clock in the morning of the following day for Friday and Saturday of each week; and

- ii. for the months of July and August of each year that period of time between the hour of eleven o'clock in the evening of one day and the hour of six o'clock in the morning of the following day;

*"prohibited places"* means those places, including public places, other than the child's normal residence and the residences of other members of the child's or parents' families;

*"public place"* means any part of the reserve that is not used or occupied by family residences;

*"reserve"* means the reserves of the First Nation as defined in section 2(1) of the *Indian Act*;

### PROHIBITION

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

### POWERS OF OFFICERS

- 4. An officer who finds a child who is or, in the absence of evidence to the contrary, appears to be under the age of 16 years, in a prohibited place during the prohibited hours contrary to section 2 may warn such child to immediately return to the child's residence and, if after so warning, the child refuses or neglects to return to his or her residence immediately, the peace officer may use such reasonable force as is necessary to escort such child to the child's residence.

### WARNING BY ADULTS

5. a. Any adult, whether a member of the First Nation or not, who finds a child who is or, in the absence of evidence to the contrary, appears to be under the age of 16 years, in a prohibited place during the prohibited hours contrary to section 3 may warn such child to immediately return to the child's residence. "
- b. Should the child refuse or neglect to return to his or her residence immediately, the adult making the warning is *not* entitled or permitted to use any force whatsoever to escort such child to the child's residence.
- c. The adult may report the breach of this bylaw by a child to any peace officer or member of the Council of Gull Bay First Nation within twenty-four hours of the time of the breach of this bylaw.

### MEETING WITH PARENTS

6. a. If, after the warnings referred to in sections 4 or 5(a) of this bylaw, the warning is disregarded by the child, or if the child is found to be disobeying this bylaw a second time within a period of thirty (30) days, the parents of such child may be directed, by resolution of Council, to meet with and discuss the situation with the Council or anyone appointed by the Council by resolution for that purpose.
- b. A copy of the resolution requiring a meeting with the child's parents shall be delivered by hand to the child's parents not less than two (2) days prior to the meeting.

### CHARGE FOR BREACH OF BYLAW

7. In addition to the authority of a peace officer to lay a charge for breach of this bylaw, the Council of the First Nation shall also have the authority to instruct by resolution that a charge for breach of this bylaw be laid, by a peace officer, or other person.

### PENALTY

8. A parent who permits his or her child to be in any prohibited place during the prohibited hours, contrary to section 3, commits an offence and is liable on summary conviction to a fine not exceeding two hundred (\$200.00) dollars or imprisonment for a term not exceeding seven (7) days or to both fine and imprisonment.

This bylaw is hereby made at a duly convened meeting of the Council of Gull Bay First Nation this 15 day of OCTOBER, 1995.

Voting in favour of the resolution are the following members of the Council:

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Chief Oliyer Poile

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Councillor Eugene Esquega

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Councillor Hugh King

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Councillor Wilfred Kwississens

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Councillor Morris Nowejigick

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Councillor Mike King

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Councillor Murphy Bouchard

\_\_\_\_\_  
Councillor Alfred Gay

being a majority of those members of the Council of Gull Bay First Nation present at the aforesaid meeting of the Council. The quorum of the Council is five members. The number of members of the Council present at the meeting was 5.