

**BY-LAW NO. 0001-12**

# **CHEMAWAWIN CREE NATION**



## **CURFEW BY-LAW**

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**BY-LAW NO. 0001-12  
BEING A BY-LAW RESPECTING CURFEW  
ON  
CHEMAWAWIN CREE NATION RESERVES 1, 2 and 3**

**PREAMBLE**

**WHEREAS** the people of Chemawawin Cree Nation 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 Chemawawin Cree Nation are concerned about a variety of problems affecting 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 Chemawawin Cree Nation seek to combat such problems and promote family bonds and peace and tranquility in the Community;

**AND WHEREAS** Section 81 (1) paragraphs (c), (d), (q) and (r) of the Indian Act empowers the Chief and Council of Chemawawin Cree Nation to make By-Laws 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 Chemawawin Cree Nation 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;

**AND WHEREAS** a majority of the electors of Chemawawin Cree Nation in attendance at a Public Meeting held on **October 24, 2012** called by the Chief and Council have assented to the contents of this by-law;

**THEREFORE**, the Chief and Council of Chemawawin Cree Nation enacts this By-Law as follows:

**SHORT TITLE**

1. This By-Law may be cited as the “Chemawawin Cree Nation By-Law No. **0001-06**”.

## DEFINITIONS

2. In this By-Law:

“**Child**” means any person who is 17 years of age and under;

“**Community Social Event**” means any wedding, winter carnival, sports event, religious celebration or other social event recognized as such by the Chief and Council of Chemawawin Cree Nation;

“**Council**” means the Chief and Council of Chemawawin Cree Nation;

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

“**Peace Officer**” means a peace officer as defined in section 2 of the Criminal Code, R.S.C. 1985, c.C-46, and for greater certainty, shall include Chemawawin Cree Nation Band Constables, and any Citizens or Peace Keepers as appointed by Chief & Council.

“**Public Place**” means any place to which the public have access as of right or by invitation, express or implied and includes, without limiting the generality of the foregoing, streets, trails and paths, all sporting facilities and any business enterprise on Chemawawin Cree Nation Reserves including the school grounds of the Chemawawin School.

“**Prohibited Hours**” ordinarily means that period of time when a child is prohibited from being in a public place unaccompanied, as follows:

| AGE          | CURFEW TIME  |
|--------------|--|
| 17 and Under | 10:00 p.m. - 6:00 a.m. (10 months September to June) |
| 17 and Under | 12:00 a.m. - 7:00 a.m. (02 months July and August)   |

**and**

“**Prohibited Hours**” means that period of time between the hour of (10) ten o’clock in the evening of one day and the hour of (6) six o’clock in the morning of the following day during the calendar months of September to June (10 months) of each year; and between the hour of (12 midnight) 12 o’clock in the evening of one day and the hour of (7) seven o’clock in the morning of the following day during the remaining calendar months of July and August of each year.

“**Reserve**” means the Chemawawin Cree Nation Reserves.

## PROHIBITION

3. No Parent(s) shall permit his or her Child to be in any public place on the Reserve during

the Prohibited Hours unless such Child:

- 1) is accompanied by his or her Parent(s);
- 2) is accompanied by a person who is eighteen (18) years of age or over, with the authorization of that Child's Parent(s);
- 3) is attending or is directly returning home from a Community Social Event; or,
- 4) is authorized by resolution of Council.

## **POWERS OF A PEACE OFFICER**

4. 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 18 years in a public place on the Reserve during Prohibited Hours contrary to Section 3, may:
  - (1) require the Child to produce identification and proof of age;
  - (2) warn such Child to immediately return to the Child's residence and,
  - (3) if after so warning, the Child refuses or neglects to return to his or her residence forthwith, the Peace Officer may use such reasonable force as is necessary to escort such Child to the Child's residence or a relative's residence or to a Child and Family Services Worker.

## **NOTIFICATION OF PARENT(S)**

5. A Peace 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 Parent(s) that the Child was in breach of curfew, and shall advise of the time and place the breach was observed.
6. A Peace 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 (Appendix "A") on the Child's Parent(s) containing the following information:
  - (1) the time and place of the breach;
  - (2) the time and place of the previous breach;
  - (3) a recommendation that the Child be more closely supervised;
  - (4) a listing of the phone numbers and address of the Child and Family Services Agency;

- (5) information as to potential fines and penalties for breach of the By-Law.

Copies of this notice shall be forwarded to the Child and Family Services Agency serving Chemawawin Cree Nation and to the Local Justice Committee.

7. A Peace 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 (30) thirty days of the 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 the Local Justice Committee interview the Child and the Parent(s) to determine if they require advice or assistance.

## **MEETING WITH PARENT(S)**

8.
  - (a) The Justice Committee will be appointed by the Chief and Council to meet with any Parent (s) of a Child who has received two or more notices as set out in Section 6, to discuss the infractions;
  - (b) The Justice Committee will provide a report and make recommendations after meeting with the Parent (s) of said Child for any further action to be taken.

## **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**

1<sup>st</sup> infraction – If a Child/Youth is caught wandering around the Community during the prohibited hours, then the Band Constable/Peace Officer/Security shall take the child/youth home, make sure he//she tells and warns the Parents about the consequences the next time their kids are caught and that they could be referred to CFS.

2<sup>nd</sup> infraction – The Child/Youth along with the parents/guardians will be referred to the Justice Committee and they the Committee will deal with the Child/Youth, and explain to the Parents/Guardians that it is their responsibility for the Child/Youth and not the Child/Youth to control the Parents/Guardians.

3<sup>rd</sup> infraction – A fine of \$100.00 cash, no fine option and no community services work will be imposed. A Parent/Guardian will be deducted from their pay or welfare cheque and the Child/Youth referred to Child and Family Services.

4<sup>th</sup> infraction – A Child/Youth could be put in the local jail cell for a couple of hours, just to let them know how it feels to be in jail, if they want to go in that direction and if they continue to break the curfew by-law and a fine of \$200.00 charged to the parents of the child and a ticket for the fine issued when they pick up their child.

## **POWER TO ALTER CURFEW**

10. Notwithstanding any other provision in the 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**

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

## **SEVERABILITY**

12. In the event that a court of competent jurisdiction or any other body with jurisdiction determines that any provision herein is unlawful or beyond the jurisdiction of the Chemawawin Cree Nation Council and/or the Government of Canada, said provision shall be severable from this By-Law and the remainder of the terms of this By-Law and any resolutions enacted under By-Law shall remain in full force and effect.

## **AMENDMENT**

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

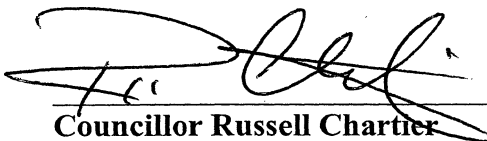
PASSED AT A DULY CONVENED MEETING OF CHEMAWAWIN CHIEF AND COUNCIL THIS 8<sup>th</sup> DAY OF November, 2012.

  
\_\_\_\_\_  
Chief Clarence Easter

  
\_\_\_\_\_  
Councillor Albert Packo

  
\_\_\_\_\_  
Councillor A. Kenneth George

  
\_\_\_\_\_  
Councillor William Hengemuehl

  
\_\_\_\_\_  
Councillor Russell Chartier

  
\_\_\_\_\_  
Councillor D. Jeffery Thomas

# CHEMAWAWIN CREE NATION



## CURFEW BY-LAW NOTICE

\_\_\_\_\_ was located at \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_ the Parent/Guardian of \_\_\_\_\_

was served a warning for the Child not being home for the noted curfew time of 10:00 p.m. This warning will be kept for future reference.

Parent/Guardian signature: \_\_\_\_\_

Date: \_\_\_\_\_

Band Constable/Peace Keeper: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_