

BIGSTONE CREE NATION
PANDEMIC BYLAW 001-11-2021

January 11, 2021

WHEREAS, the Chief and Council of Bigstone Cree Nation met at a duly convened meeting on the above date, and;

WHEREAS, the Chief and Council of Bigstone Cree Nation are empowered to act on behalf of its' Membership, and;

WHEREAS, Council has declared a State of Local Emergency and that an Emergency exists in Bigstone Cree Nation as a result of the pandemic spread of COVID-19, and;

AND WHEREAS, the Chief and Council wish to enact and enforce a bylaw in respect of a Pandemic Response for the health and safety of the Nation, its members and its residents in accordance with the *Indian Act* R.S.C., 1985, c. 1-5., more specifically **Section 81** (1)(a), (b), (c), (d), (r).

AND WHEREAS, the Chief and Council wish to amend the Pandemic Bylaw 011-06-2020 to be replaced with the Pandemic Response Bylaw 001-11-2021.

AND WHEREAS, the Chief and Council wish to amend the Pandemic Response Bylaw through a Motion with a Quorum of Council present as necessary from time to time.

THEREFORE BE IT RESOLVED, the Chief and Council of Bigstone Cree Nation have approved and passed this bylaw on the date shown above and in accordance with the *Indian Act* R.S.C., 1985, c. 1-5, more specifically Sections **81** (1)(a), (b), (c), (d), (r), **86**(1), (2), (3), (4), (5), and;

FURTHERMORE, BE IT RESOLVED, the Chief and Council of Bigstone Cree Nation hereby enacts the following Bigstone Pandemic Response bylaw as an amendment to the previous bylaw "*Bigstone Pandemic Response By-law 001-04-2020*".

PART 1 – TITLE and DEFINITIONS

Short Title

1. This By-law may be cited as the "**Bigstone Pandemic Response By-law 001-11-2021**"

DEFINITIONS

2. In this By-law:

- a. **“BCN” or “Bigstone”** shall mean Bigstone Cree Nation;
- b. **“Child”** means a person who is minor under the age of 12;
- c. **“Council”** means the Chief and Council of Bigstone Cree Nation;
- d. **“Curfew hours”** means the hours of prohibition as set out by Section 3.c;
- e. **“Essential”** People who are essential to maintain the government, public works, emergency services and law and order, that includes RCMP, Ambulance, Fire Dept. and By-law enforcement;
- f. **“Face mask”** means a medical or non-medical mask or other face covering that fully covers the nose, mouth and chin;
- g. **“Local Business”** means any business that operates within BCN Reserves;
- h. **“Legitimate reason”** means the following;
 - i. Traveling directly to and from place of work
 - ii. Essential service
 - iii. Essential employee
 - iv. Emergency
- i. **“Mass gathering”** means a large group of people attending funerals, weddings or any other gatherings in any of the public places;
- j. **“Officer”** means RCMP, Peace Officer, Special constable or By-law officer;
- k. **“Parent or Guardian”** means the person(s) who in direct care of a child or youth;
- l. **“Public place”** means any place or area within Bigstone Cree Nation Reserve land that is privately or publicly owned or leased, to which the public have access as a right or by initiation, express or implied;
- m. **“Reserve”** means the Bigstone Cree Nation Reserves of # 166, 166A, 166B, 166C, 166D and Jean Baptiste Gambler Reserve # 183 and any other land owned/governed by Bigstone Cree Nation;
- n. **“Road Monitoring”** means manned checkpoints upon entry and exit of respective communities within BCN Reserves;
- o. **“Self-Isolate”** means to stay home for a term of 14 consecutive days, this includes everyone in the same household, upon arrival of returning to any of the BCN Reserves;
- p. **“Treaty Entitlement Lands”** and/or **“TLE Lands”** are the areas set apart by Canada to be added to Bigstone Cree Nation Reserves.
- q. **“Violator”** means any person who does not have a legitimate reason to be in a public place during the curfew hours;
- r. **“Violation ticket”** means a ticket issued to a Violator pursuant to this curfew bylaw as per Section 6 of this by-law.
- s. **“Youth”** means a person who is a minor between the ages of 13 and 17 years old;

3. CURFEW

Council hereby authorizes the following;

- a.** The Council enacts a curfew within all Reserves and TLE lands governed by BCN and is liable for enforcement;
- b.** The Council may at its discretion, enforce road monitoring activities in respective Reserves and Treaty Entitlement Lands, more specifically Reserve # 166, #166A, #166B, #166C, #166D, #183 and Chipewyan Lake;
- c.** The curfew hours as set by Quorum of Council are between the hours of 9:00 p.m. and 6:00 a.m.;
- d.** The curfew is to remain in effect until Chief and Council lift the curfew and/or the Pandemic Response;
- e.** the hours of prohibition shall be posted to the membership/public no later than the following morning;
- f.** Mass gatherings restrictions will be set by Quorum of Council based on the recommendation of the ECC, and shall be posted immediately no later than the following morning;
- g.** Procure on a first priority basis any clothing, equipment medical supplies or any other essential supplies required to cope with the emergency, for the duration of the emergency;
- h.** Local businesses in any emergency are prohibited to engage in price increases and is liable for enforcement;
- i.** Local businesses are to restrict access to minors, and close one hour prior to curfew within each respective Reserve;
- j.** Public places and facilities are closed during the Pandemic response;
- k.** Failure to adhere to social distancing practice/protocols is liable for enforcement;
- l.** Failure to abide by Public Health Orders is liable for enforcement;
- m.** Emergency Essential Service Personnel and Law Enforcement Personnel are excluded from this bylaw;
- n.** Failure to self-isolate upon return to any respective Reserve is liable for enforcement;
- o.** That at the discretion of the By-law officer and Peace Officers to issue violation tickets under Section 5 Part 3-Offences of this by-law;
- p.** It is an offence under this by-law to fail to comply with any written order issued under Section 5 Part 3-Offences of this by-law.

4. FACE MASKS

Council hereby authorizes the Mandatory wearing of face masks that cover the nose, mouth and chin in the following;

- a. Public places
- b. Local Businesses
- c. Mass gatherings

5. EXEMPTIONS

Council hereby authorizes the exemptions of face masks to the following;

- a. Persons under the age of 2
- b. Persons who are clearly unable to place or remove a face mask without assistance
- c. Persons who are unable to wear a face mask due to mental or physical limitations, or protected under the Alberta Human Rights Act;
- d. Persons consuming drinks or food in designated seating areas
- e. Persons taking part in religious or spiritual ceremonies where a face mask would limit or impede religious and/or spiritual ceremony.
- f. Persons engaged in water activities
- g. Persons engaged in physical exercise
- h. Persons providing care or assistance to a person with a disability where the face mask would hinder the caregiver
- i. Persons engaged in a service that requires the temporary removal of a face mask
- j. Schools and other educational places and facilities
- k. Hospitals and Health Care facilities
- l. Childcare facilities
- m. Areas exclusively accessed or used by Nation employees or Public Transport operators, provided that there are physical barriers in place and physical distancing is implemented between the operator and any person not required to wear a face mask as per Section 5 of this bylaw

6. PART 2 – AUTHORITY

This Bigstone Pandemic Response By-law shall come into effect upon a declaration of a State of Local Emergency (S.O.L.E.)

- a. The Chief and Council of Bigstone Cree Nation empowered by virtue of Section 81 of the *Indian Act* R.S.C. 1985. C. 1-5, may from time to time as deemed necessary by Chief and Council will enact this bylaw with for following intents and purposes;
 - i. to provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases;
 - ii. the regulation of traffic;
 - iii. the observance of law and order;
 - iv. the prevention of disorderly conduct and nuisances;
 - v. 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;

7. PART 3 – MONITORS

This Bigstone Pandemic Response By-law makes provision for personnel authorized by Chief and Council or their designate, to patrol all reserves and TLE Lands for the following purposes;

- a. Be clearly visible so as to prevent and deter violations of this bylaw
- b. Be vigilant in assessing hazardous or dangerous situations and conveying to the Bylaw Officer, Peace Officer or RCMP of the situation
- c. Observe and Report daily or as the need arises, to the Council Designate, Bylaw Officer, Peace Officer or RCMP
- d. Maintain order, this may mean being present at gatherings or places of business

8. PART 4 – OFFENCES

- a. A By-law officer and Peace Officers are hereby authorized and empowered to issue a violation ticket in accordance with the Provincial Offences Procedure Act to any person whom the By-law officer and Peace Officer have reasonable grounds to believe has contravened any provision of this by-law.
- b. A person who fails to comply with any provision of this by-law is guilty of an offence and is liable, upon summary conviction, to the fine specified in Section 6 of this by-law and in default of payment, to imprisonment for up to 30 days;

- c. If a Violation ticket is issued in respect of an offence, The Violation ticket may:
 - i. Specify the amount established by this by-law for the offence, or
 - ii. Require a person to appear in Court without the alternative of making a voluntary payment.
- d. A person who commits an offence may:
 - i. If a violation ticket is issued in respect of the offence, and;
 - ii. If the violation ticket specifies the fine amount established by this By-law for the offence, make a voluntary payment equal to the specified fine by this By-law by delivering the violation ticket and the specified fine to the Provincial Court.
- e. When a clerk records in the court records the receipt of a voluntary payment pursuant to this by-law and the Provincial Offences Procedure Act, the act of recording receipt of that payment constitutes acceptance of the guilty plea and also constitutes a conviction and the imposition of a fine in the amount of the specified penalty.
- f. Notwithstanding the penalties established in Section 6 of this by-law, the Bigstone Cree Nation may take any actions necessary to enforce this by-law including, but not limited to, the suspension, or revocation of a business license and/or Bigstone Council Resolution issued by the Nation, or any other legal action required to bring about compliance with this by-law.
- g. If an officer finds a child or youth during curfew hours, the officer may call child protective services, if the officer determines the child or the youth is in need of protective services because of any of the following;
 - i. The child or youth is abandoned or lost
 - ii. The parent of guardian is unable or unwilling to care for the child or youth
 - iii. The child or youth is in need of medical help
 - iv. There is a risk that the child or youth may be physically or mentally injured by the parent or guardian
 - v. The child or youth has been physically or emotionally injured by the parent or guardian
 - vi. The condition of the place of residence of the child or youth is considered inadequate by the officer to provide the basic needs or prevent injury or harm.

9. PENALTY

- a.** Any person who fails to comply or adhere with an order made pursuant to this by-law, or resists or interferes with an officer acting pursuant to this by-law, commits an offence.
- b.** A person who commits an offence under this by-law is liable on summary conviction to a fine set out in Schedule "A" and/or including;
 - i.** A maximum of \$ 1,000 (one thousand dollars), or imprisonment for a term not exceeding 30 (thirty) days, or both.
- c.** All fines are to be paid to the Provincial Court; fine amounts shall not be paid to any individual.

10. INTERPRETATION

- a.** If any part of this by-law is found by the Court to be ineffective or inoperative by rule of law, that part shall be severed from this by-law in order to preserve the intent of the whole by-law.
- b.** Words in this by-law that would normally imply singularity of male and female gender should be interpreted as including the singular and the plural and the masculine and feminine where the context requires.
- c.** This by-law shall respect the customs, culture and traditions valued by Bigstone Cree Nation.
- d.** Nothing in by-law shall be construed or interpreted in a manner so as to deny, abrogate or derogate any person from any of the Aboriginal or Treaty rights.
- e.** Schedule "A" forms a part of this by-law.

11. AMENDMENT

- a.** The Chief and Council of Bigstone Cree Nation may from time to time as deemed necessary by Chief and Council, amend this curfew by-law.

12. ENACTMENT

- a.** This curfew by-law has come into force and effect as per Section 86 of the *Indian Act* R.S.C. 1985. C. 1-5.

LET IT BE KNOWN THAT THIS BY-LAW ENTITLED BIGSTONE PANDEMIC BY-LAW, IS HEREBY ENACTED AS BY-LAW NO. 001-11-2021 BY THE CHIEF AND COUNCIL OF BIGSTONE CREE NATION AT A DULY CONVENED MEETING OF THE SAID COUNCIL HELD ON THE 11TH DAY OF JANUARY 2021.

This by-law is consented to by the following members of Council through the following Motion;

Silas Yellowknee – Chief

Robert Cardinal – Wabasca Council

Helen Alook – Wabasca Council

Lawrence Oar – Wabasca Council

Lillian Anderson – Calling Lake Council

Loretta Gladue – Calling Lake Council

Maggie Alook – Chipewyan Lake Council

Ken Alook – Wabasca Council

Felix Schroder – Wabasca Council

Don Gambler – Wabasca Council

Eva Yellowknee – Chipewyan Lake Council

MOTION # 11-06-20-SPC-03

Moved by Robert Cardinal to enforce Shelter in Place for the residents of Calling Lake / J.B. Gambler # 183 Reserve excluding essential services effective November 6, 2020. Seconded by Lillian Anderson. All in favor. Motion carried.

As per excerpt from BCN C&C Special (B) Meeting Minutes – January 11, 2021

MOTION#01-11-21-SPCA-02

Moved by Robert Cardinal to approve the curfew hours from 9:00 pm – 6:00 am effective January 11, 2021 to February 11, 2021. Seconded by Lawrence Oar. All in favor. Motion carried.

Note: includes the following communities Wabasca, Calling Lake, Sandy Lake & Chipewyan Lake

3.1 Business Hours

MOTION#01-11-21-SPCA-03

Moved by Felix Schroder to approve that business hours closure is at 8:00 pm one hour prior to curfew hours effective January 11, 2021 – February 11, 2021. Seconded by Ken Alook. All in favor. Motion carried.

3.2 Social Gatherings

MOTION#01-11-21-SPCA-04

Moved by Lawrence Oar that no “Social Gatherings” in all BCN Reserves effective January 11, 2021 – February 11, 2021. Seconded by Don Gambler. All in favor. Motion carried.

Note: this includes church, cultural, social and any/all family gatherings

3.3 MD#17 Bylaw No. 2020-05

MOTION#01-11-21-SPCA-05

Moved by Felix Schroder to support the MD#17 Bylaw No 2020-05 effective January 11, 2021. Seconded by Robert Cardinal. All in favor. Motion carried.

MOTION#01-11-21-SPCA-06

Moved by Helen Alook to amend the Bigstone Cree Nation Pandemic Bylaw effective January 11, 2021. Seconded by Robert Cardinal. All in favor. Motion carried.

MOTION#01-11-21-SPCA-07

Moved by Helen Alook that Chief and Council approve the closure of BCN OPK School and BCN Day Care effective January 11, 2021 to January 22, 2021. Seconded by Robert Cardinal. All in favor. Motion carried.

BEING A MAJORITY OF THOSE MEMBERS OF THE COUNCIL OF BIGSTONE CREE NATION PRESENT AT THE AFORESAID MEETING OF THE COUNCIL.

The Quorum of the Council is 6 members.

I, Chief Silas Yellowknee of the Bigstone Cree Nation, do hereby certify that a true copy of the foregoing by-law was forwarded to the Minister of Indigenous Services Canada and to the First Nations Gazette on this 11 day of January, 2021.

)
)
)
)
) _____
Signature of Authorized Official

)
) Silas W. Yellowknee
Print name of Authorized Official

B. C. D.
Witness

Schedule "A"

A person who fails to comply with any provision of the "BIGSTONE PANDEMIC RESPONSE BY-LAW 001-11-2021" is guilty of an offence and is liable, upon summary conviction, to the fine specified in the table below:

PENALTIES	SECTION	FINE
Failure to wear face mask properly as per Section 4	Section 4.(a),(b),(c)	\$100 One hundred dollars
Failure to abide by curfew	3. (b), (c)	\$ 500 Five Hundred Dollars
Failure to adhere to social distancing practices / protocols	3. (h)	\$ 500 Five Hundred Dollars
Failure to self-isolate	3.(l)	\$ 1,000 One Thousand Dollars