

*** SAMPLE CURFEW BY-LAW FOR YOUTH**

** This is a sample by-law only, to be used as a guide when drafting a by-law that takes into consideration local conditions or concerns. It is recommended that a draft of a by-law be submitted to a By-Law Advisor for comment and review to avoid it potentially being disallowed pursuant to section 82(2) of the Indian Act. Any submission of a by-law based on this sample by-law does not ensure that the by-law will be allowed to come into force. Neither the Minister of Indian and Northern Affairs nor the Department of Indian Affairs and Northern Development guarantee the present and future validity or enforceability of a by-law that is based on this sample by-law. These are issues for enforcement agencies and the courts to decide.*

**By-Law Number _____
A Curfew By-law for Youth**

- or -

→NOTE: if repealing an existing curfew by-law, include the title below instead:

**By-Law Number _____
To Repeal and Replace By-Law Number _____
As a Curfew By-law for Youth
Enacted on the [day] of [month] in [year]**

THE COUNCIL of the _____ Indian Band (“the Council”) is of the opinion that youth should not remain unattended and without adult supervision in public places during the evening hours and/or throughout the night, for the welfare and safety of the youth and also for the reserve community;

PARAGRAPHS 81(1)(c), (d), (q) and (r) of the *Indian Act*, R.S.C. 1985, c. I-5 (“the Act”), provide that a council of a band may make by-laws for the observance of law and order, the prevention of disorderly conduct, ancillary matters, and for imposing a penalty for violating such by-laws;

→NOTE: if repealing an existing curfew by-law, include this recital:

THE COUNCIL enacted By-Law Number _____ on the [day] of [month] in [year], and wishes to repeal it and replace it with this by-law;

THE COUNCIL makes the following by-law:

Short Title

1. This by-law may be cited as the _____ Indian Band Curfew for Youth By-Law.

1. This by-law may be cited as the _____ Indian Band Curfew for Youth By-Law.

Interpretation

2. In this by-law:

“**adolescent**” means any person whose age is between and including thirteen (13) and sixteen (16) years old;

“**community social event**” means a social event recognized as such by the Council and may include but is not limited to a wedding, winter carnival, sports event or recognized religious celebration;

“**caregiver**” means a person who is at least eighteen (18) years old and / or is responsible for the custody or care, in fact, of a preadolescent or adolescent, and may include, but is not limited to, a parent, grandparent or guardian;

“**on the reserve**” means physically located within the area defined as a “reserve” in the Act, and set apart for the use and benefit of the _____ Indian Band and known as Indian Reserve number(s) _____ (and) _____;

“**peace officer**” means a “peace officer” as defined in section 2 of the *Criminal Code*, R.S.C. 1985, c. C-46;

“**preadolescent**” means any person whose age is twelve (12) years old or under;

“**prohibited hours**” means the period of time between eleven (11) o'clock in the evening of one day and six (6) o'clock in the morning of the following day during the calendar months of June, July and August of each year; and between nine (9) o'clock in the evening of one day and six (6) o'clock in the morning of the following day during the remaining calendar months of each year;

“**youth**” means any person whose age is sixteen (16) years old or under.

→**NOTE**: *Consider whether the band wishes to only prohibit being in public places or to prohibit being in any place that is not his or her residence and draft accordingly.*

Prohibition

3. (1) No caregiver shall permit any preadolescent in their care to be in any public place on the reserve during the prohibited hours unless that preadolescent is:
- (a) accompanied by their caregiver;
 - (b) accompanied by a person who is at least eighteen (18) years old, with the authorization of that preadolescent's caregiver;

- (c) attending or directly returning home from a community social event; or,
- (d) authorized by a resolution of the Council to be in a public place on the reserve during the prohibited hours.

Powers of the Peace Officer

- 4. (1) A peace officer who finds a youth who is or, in the absence of evidence to the contrary, appears to be sixteen (16) years old or under, in a public place on the reserve during the prohibited hours, contrary to section 3, may give the youth a warning and immediately escort the youth their place of residence.

(2) A peace officer shall notify the caregiver(s) that the youth was found in a public place on the reserve during the prohibited hours and was immediately escorted to their place of residence.

Meeting with Caregiver(s)

- 5. (1) If a youth disregards the peace officer's warning or is found by a peace officer to be disobeying this by-law a second time within a period of thirty (30) days, the youth and their caregiver(s) may be directed, by a resolution of the Council, to meet and discuss the by-law infraction with the Council or anyone appointed by the Council through a Band Council Resolution for that purpose.

(2) A copy of the resolution of the Council referred to in subsection 5(1) shall be sent by first class mail or delivered by hand to the youth's caregiver(s) not less than seven (7) full days prior to the proposed meeting date.

Enforcement

- 6. After meeting with the Council or any other person appointed by the Council, a caregiver who permits a preadolescent to be in any public place on the reserve during the prohibited hours, contrary to section 3, commits an offence.

- 7. After meeting with the Council or any other person appointed by the Council, an adolescent who is found to be in any public place on the reserve during the prohibited hours, contrary to section 3, commits an offence.

Penalty

8. A person who commits an offence under this by-law is liable on summary conviction to a fine of not more than [specify an amount not exceeding \$1,000] or to imprisonment for a term of [specify a length of term not exceeding 30 days], or to both.

Severance

9. 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

10. Pursuant to section 82(2) of the Act, this by-law comes into force forty (40) days after a copy of it is mailed to the Minister, unless it is disallowed by the Minister within that period. The Minister may also declare this by-law to be in force at any time before the expiration of the forty (40) day period.

→**NOTE: if repealing an existing curfew by-law, include this paragraph:**

Repeal

11. By-Law Number _____ enacted on the [day] of [month] in [year], and being a By-Law to _____, is repealed.

THIS BY-LAW IS made at a duly convened meeting of the Council of the _____ Indian Band this [day] of [month] in [year].

Voting in favour of the by-law are the following members of the _____ Indian Band 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)

The majority of those members of the _____ Indian Band Council were present at the above dated meeting of the _____ Indian Band Council.

The quorum of the _____ Indian Band Council is _____ members.

The number of members of the _____ Indian Band Council present at the above dated meeting was _____.

I, (Chief/Councillor of the _____ Indian Band), promise that a true copy of the foregoing by-law will be mailed to the Minister of Indian Affairs and Northern Development at the _____ office within four days pursuant to subsection 82(1) of the Act.

(Chief/Councillor of the _____ Indian Band)

(Witness) (Chief/Councillor)