



WUIGINUXV NATION COVID-19 COMMUNITY PROTECTION BYLAW

**A bylaw to reduce the risk from the COVID-19 pandemic
in Wuiginuxv Nation**

December 7, 2020

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WHEREAS:

- A.** Wuikinuxv Nation has an inherent right to self-government which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;
- B.** A communicable disease known as COVID-19 has been declared by the World Health Organization to be a global pandemic and has arrived in British Columbia. COVID-19 is caused by a highly infectious virus known as SARS CoV-2. A person who is infected with SARS CoV-2 can infect other people with whom the infected person is in contact;
- C.** Wuikinuxv Nation faces certain challenges, including its remote location, substandard housing conditions, high levels of underlying health conditions, low incomes in many households and limited access to medical services that make it particularly vulnerable to an outbreak of COVID-19;
- D.** SARS CoV-2 and COVID-19 pose a serious and immediate threat to the health, safety and lives of the people of Wuikinuxv Nation, and especially to Elders, people with underlying health conditions and other vulnerable community members., and require the prompt coordination of action or special regulation of persons or property to protect the health, safety, well-being and lives of people;
- E.** The threat to Wuikinuxv Nation Elders is an existential threat to the culture of Wuikinuxv Nation and its continued existence. Our Elders are vitally important to Wuikinuxv Nation culture and well-being. They play a crucial role in our traditional cultural activities and governance. They are the knowledge keepers and teachers for Wuikinuxv Nation; sharing our laws, traditions, practices, language, culture, values and lessons with younger generations and guiding our culture and decision-making.
- F.** Canada's Chief Public Health Officer (CPHOC) and the British Columbia Provincial Health Officer (BCPHO) have made orders and recommendations designed to prevent and reduce the spread of SARS CoV-2, including requiring social (physical) distancing and limiting the size of gatherings;
- G.** Council has an obligation to protect Wuikinuxv Nation members and residents, particularly Elders, children and other vulnerable community

members, and to enforce the orders and recommendations of the CPHOC and the BCPHO and reasonably believes that urgent action is required to protect Wuikinuxv Nation from the spread of SARS CoV-2 and a COVID-19 outbreak;

- H. Sections 81(1)(a), (c), (d), (p), (p.1), (q) and (r) of the *Indian Act* empower Council to pass bylaws to provide for the health of residents on the reserve, the observance of law and order, the prevention of disorderly conduct and nuisances, the removal and punishment of persons trespassing on reserve or frequenting the reserve for prohibited purposes, the residence of Members and other persons on the Reserve, and for matters arising out of or ancillary to the exercise of powers under this section and the imposition of a penalty for the violation of any such bylaw;
- I. In accordance with the need for physical distancing, Council is holding its meeting to review and approve this bylaw remotely by video and teleconference.

Now Therefore the Council of Wuikinuxv Nation at a duly convened meeting enacts the following Bylaw:

PART 1

1. NAME

- 1.1 This Bylaw may be cited as the Wuikinuxv Nation COVID-19 Community Protection Bylaw.

PART 2

2. PUBLICATION OF BYLAW

- 2.1 Upon enacting this Bylaw, Council shall:

- (a) publish the Bylaw in the First Nation Gazette;
- (b) post the Bylaw on a Wuikinuxv Nation internet page, to remain until such date as it is repealed;
- (c) post the Bylaw in a public area in the Wuikinuxv Nation Administration Building including a notice containing:
 - (i) the date that this Bylaw is in force; and
 - (ii) a summary of this Bylaw.

PART 3

3. INTERPRETATION

- 3.1 In this Bylaw:

“Ancestry” means a person who is not a Member and is recognized by Wuikinuxv Nation as having ancestral or familial ties to Wuikinuxv Nation.

“BCPHO” means the Provincial Health Officer of British Columbia

“Bylaw” means this Wuikinuxv Nation COVID-19 Community Protection Bylaw

“CPHOC” means the Chief Public Health Officer of Canada

“Council” means the duly elected Chief and Council of Wuikinuxv Nation

“Emergency Services” means the public organizations that respond to and deal with emergencies when they occur, including without limitation, law enforcement services, emergency medical services, firefighting services, child and family services, and search and rescue services.

“Indian Act” means the federal *Indian Act*, R.S.C. 1985, c. I-5, as amended.

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

“Officer” means

- (a) any person designated in writing by Council to enforce this Bylaw;
- (b) any person designated in writing by the BCPHO;
- (c) R.C.M.P. officers; and
- (d) any other person charged by Canada or British Columbia with the duty to preserve and maintain the public peace in accordance with their laws

“Permanent Resident” means a person who has the right to reside on the Reserve on a permanent basis and who is ordinarily resident on the Reserve.

“Prohibited Purposes” means any of the following activities conducted on the Reserve by any person, including a Member or Permanent Resident:

- (a) hawking or peddling of wares or merchandise without a valid license or permit;
- (b) loitering;
- (c) soliciting financial assistance;
- (d) participating in gatherings of people prohibited under this Bylaw; or
- (e) unlawfully dealing, trafficking or delivering alcohol or drugs to any person.

“Protective Measures” means all those protective measures intended to reduce or prevent the spread of COVID-19 as set out in Part 5 of this Bylaw;

“Reserve” means all those tracts of land set apart by Canada for the use and benefit of Wuikinuxv Nation and includes Cockmi 3, Katit 1 and Kiltala 2.

“Unauthorized Person” means a person who meets none of the criteria in section **Error! Reference source not found.** of this Bylaw or who has been designated by Council as an Unauthorized Person in accordance with section 5.4 of this Bylaw and is therefore not permitted to be on the Reserve.

“Wuikinuxv Nation” means the Wuikinuxv Nation, a band within the meaning of section 2 of the *Indian Act*.

3.2 Unless the context otherwise clearly indicates, words used in the singular include the plural, the plural includes the singular, and the neuter gender includes the masculine and the feminine.

PART 4

4. APPLICATION OF BYLAW

Bylaw applicable to Reserve

4.1 This Bylaw applies to the Reserve.

Bylaw applicable to Members and non-Members

4.2 This Bylaw applies to all persons, including Members.

PART 5

5. PROTECTIVE MEASURES

Restrictions on access to the Reserve

5.1 No person is permitted on the Reserve, or any part of it, if that person is frequenting the Reserve for a Prohibited Purpose.

5.2 A person may only enter or be present on the Reserve if they are:

- (a) a Permanent Resident;
 - (b) Emergency Services;
 - (c) Caring for a Permanent Resident;
 - (d) Conducting urgent appliance or home repairs for a Permanent Resident;
 - (e) Delivering goods to a home or business on the Reserve, except not alcohol or drugs unless in accordance with applicable laws;
 - (f) Conducting maintenance or repairs on utilities or public infrastructure; or
 - (g) Providing other essential services or work for Wuikinuxv Nation at the request of Council.
- 5.3 Council may approve a request made in writing for a person to enter or be present on the Reserve for a reason not specified in section 5.2.
- 5.4 A person who meets none of the criteria in section 5.2 and who has not received permission of Council pursuant to a written request made under section 5.3 is not allowed to enter or be present on the Reserve and is an Unauthorized Person.
- 5.5 Despite sections 5.2 and 5.3 Council may designate a person to be an Unauthorized Person where the person meets one of the criteria in section 5.2 or has received permission of Council pursuant to a written request made under section 5.3 and Council has determined the person to be a threat to the health and safety of Wuikinuxv Nation and Members because the person, has contravened an order of an Officer made under this Bylaw and Council has a reasonable belief that the person will continue the contravention.

Restrictions and Closure of Public Facilities

- 5.6 Council may order closure or restrictions on access to community facilities on the Reserve, including schools, playgrounds, recreational buildings and cultural buildings.

Restrictions on Businesses

- 5.7 Council may make orders restricting the hours of operation and number of persons entering businesses or other premises on Reserve.

Compliance with Orders of the CPHOC and BCPHO

- 5.8 All persons present on Wuikinuxv Nation Reserves must strictly comply with any order, recommendation or guidance of the CPHOC or BCPHO made in relation to the COVID-19 outbreak from time to time, including orders, recommendations and guidance related to the following:
- (a) Travel restrictions;
 - (b) Self-isolation and/or quarantine;
 - (c) Prohibitions on gatherings;
 - (d) Staying home;
 - (e) Restricting visitors;
 - (f) Social (physical) distancing; and
 - (g) Wearing face masks or other personal protective equipment when in public.

Council May Order Increased Protective Measures

- 5.9 Council may:
- (a) impose restrictions on the criteria in section 5.2 further limiting the class of persons who may be present on the Reserve, or
 - (b) issue orders by resolution requiring Protective Measures on the Reserve that are more stringent than an order, recommendation or guidance of the CPHOC or BCPHO,

if Council determines such requirements are reasonable and necessary to protect the health and safety of Wuikinuxv Nation, Members, Permanent Residents or the public.

PART 6

6. ENFORCEMENT AND PENALTIES

Inspection

- 6.1 An Officer may do one or more of the following for the purposes of an inspection:
- (a) be accompanied or assisted by a person who has special, expert or professional knowledge of a matter relevant to the inspection;
 - (b) require a person to produce relevant records or things in the person's possession or control;
 - (c) inspect, copy or remove relevant records or things;
 - (d) require a person to stop engaging in an activity, or stop the operation of a thing;
 - (e) make records in respect of a person, place or thing;
 - (f) require that a place or thing not be altered or disturbed for a reasonable period of time;
 - (g) question a person whom the Officer reasonably believes to have relevant information;
 - (h) make an order necessary for the purpose of exercising a power of inspection.
- 6.2 An Officer may stop a person or vehicle, enter a vehicle or place and inspect a vehicle or place to monitor or confirm compliance with a provision of this Bylaw including, without limitation, to determine whether:
- (a) a person is allowed to enter or be on the Reserve, including by requesting appropriate written or verbal confirmation that the person meets one of the criteria in section 5.2 or that they have permission of Council under section 5.3;
 - (b) a person is frequenting the Reserve for a Prohibited Purpose;

- (c) a person has been designated an Unauthorized Person by Council under section 5.5
- (d) a gathering of people or occupancy in a home or building on Reserve exceeds the number specified in any order of the CPHOC or BCPHO prohibiting gatherings;
- (e) a person should be quarantining or self-isolating in accordance with an order of the CPHOC or BCPHO;
- (f) a person is in compliance with any order of Council made pursuant to section 5.9.

6.3 An Officer may conduct an inspection at any reasonable hour. Before entering a vehicle or place to conduct an inspection in accordance with section **Error! Reference source not found.** and 6.2, an Officer must take reasonable steps to notify the owner or occupier of the vehicle or place and to obtain their consent to enter, except that an Officer can conduct an inspection without providing notice if

- (a) providing notice would not be reasonably possible or practical in the circumstances, or
- (b) in the case of a Protective Measure, providing notice would frustrate the purposes of the inspection.

Orders

6.4 An Officer may order a person to do or not do anything that the Officer reasonably believes is necessary to

- (a) determine whether Protective Measures are being followed as required under this Bylaw,
- (b) prevent or stop the risk of exposure to COVID-19, or to mitigate the harm or prevent further harm from exposure to COVID-19, or
- (c) bring the person into compliance with this Bylaw.

6.5 Without limiting the generality of section 6.4, Officers may:

- (a) order any person who is frequenting the Reserve for a Prohibited Purpose to immediately leave the Reserve;
 - (b) order any Unauthorized Person not to enter or to immediately leave the Reserve;
 - (c) where a gathering of people on Reserve exceeds the number specified in any order of the CPHOC or BCPHO prohibiting gatherings, order the attendees of the gathering to disperse;
 - (d) order any person who should be under quarantine or self-isolating in accordance with an order of the CPHOC or BCPHO to comply with the terms such order, including by wearing a mask and staying home;
 - (e) order any person who is in contravention of an order made by Council pursuant to section 5.9 to take such steps as are required to bring that person into compliance with the order.
- 6.6 Where a person who has been ordered to leave the Reserve fails or refuses to do so, an Officer may take such reasonable measures as may be necessary to remove the person from the Reserve.

Offences

- 6.7 No person may interfere with or obstruct an Officer who is exercising their enforcement powers under this Bylaw or fail to comply with an Officer's order enforcing this Bylaw.
- 6.8 A person who contravenes any of the Protective Measures under this Bylaw, including any order of Council made pursuant to this Bylaw, or who breaches section 6.7 commits an offence.
- 6.9 Where an act in contravention of this Bylaw continues for more than one day, each day on which the offence is committed will be deemed a separate offence and may be punished as such.
- 6.10 The offences created by this Bylaw are in addition to, and do not replace, any applicable provincial or federal offences.

Penalties

- 6.11 Where a Member has committed an offence under this Bylaw, Council may review the circumstances of the offence and may make decisions regarding the appropriate penalties for the offence, including whether to:
- (a) undertake restorative justice measures consistent with Wuikinuxv Nation traditions and cultural protocols; or
 - (b) pursue a summary conviction and impose penalties in accordance with section 6.12.
- 6.12 A person who commits an offence under this Bylaw is liable on summary conviction to a fine of up to one thousand dollars (\$1,000.00), imprisonment for up to thirty (30) days or to both pursuant to section 81(1)(r) of the *Indian Act*.

PART 7

7. GENERAL

No Liability

- 7.1 None of Wuikinuxv Nation Council, Members, employees, representatives or agents of any of Wuikinuxv Nation or Council are liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Bylaw or from the neglect or failure, for any reason or in any manner, to enforce this Bylaw.

Compliance with Other Laws

- 7.2 Compliance with this Bylaw shall not relieve a person from having to comply with the requirements of any other applicable law or legal requirement.

Severability

- 7.3 If a court of competent jurisdiction determines that a provision of this Bylaw is invalid for any reason, the provision shall be severed from the

Bylaw and the remaining provisions of this Bylaw shall remain in full force and effect.

PART 8

8. COMING INTO FORCE AND DURATION

- 8.1 This Bylaw comes into force the day it is adopted by Council. As soon as the Bylaw is approved, it will be posted on the Wuikinuxv Nation website and in prominent locations on the Reserve and it will be shared with the Officers who will help to enforce it.
- 8.2 This Bylaw will remain in force until the earlier of these events:
 - (a) Council repeals it; or
 - (b) the CPHOC and BCPHO declare that Protective Measures are no longer necessary or recommended to deal with COVID-19.

PART 9

9. AMENDMENTS

- 9.1 This Bylaw may be amended by a quorum of Council at a duly convened meeting of Council. Council will promptly post the amended Bylaw on the Wuikinuxv Nation website and in prominent locations on the Reserve, and it will share the amended Bylaw with the Officers who are helping to enforce it.

BE IT KNOWN that this Bylaw entitled the *Wuikinuxv Nation COVID-19 Community Protection Bylaw* is hereby enacted by a quorum of Council at a duly convened meeting of Council of Wuikinuxv Nation held on MAY 11 2021.

Quorum _____

DocuSigned by:

 F2233A8DDC604EB...

(Chief)

_____ *Carolina Willie* _____

(Councilor) (Councilor) (Councilor)