

**KITASOO INDIAN BAND**

**BY-LAW RESPECTING EMERGENCY MEASURES TO PREVENT THE SPREAD OF  
INFECTIOUS DISEASE (ALCOHOL)**

**BY-LAW NO. 30-06-20-003**

**Enacted on the 30th day of June, 2020**

**WHEREAS** section 81(1)(a) of the *Indian Act*, R.S.C. 1985, c. I-5, empowers the Chief and Council of Kitasoo to make by-laws to provide for the health of residents on the reserves of Kitasoo and to prevent the spreading of contagious and infectious diseases;

**AND WHEREAS** on May 6, 2020 Chief and Council of Kitasoo passed a band council resolution banning alcohol in the community, to ensure that social distancing and self-isolation protocols are adhered to in order to minimize the risks of COVID-19 entering the community, with controls including search and seizure of alcohol coming into the community via ferry, plane, or boat;

**AND WHEREAS** despite the alcohol ban and control measures in effect, the illegal manufacture, smuggling, and possession of alcohol in the community constitutes an ongoing risk, and in the context of the current COVID-19 pandemic poses an elevated risk to the health of residents in the community;

**AND WHEREAS** the Chief and Council desires to make a by-law to prevent the spreading of contagious and infectious diseases, and further as a harm reduction measure to promote the health of the community, without prejudice to the Aboriginal rights and title of the Kitasoo/Xai'Xais Nation, including its inherent right of self-government, relating to Klemtu and the traditional territories of the Kitasoo/Xai'Xais Nation;

**The Council hereby enacts a by-law as follows:**

**Interpretation**

1. In this By-Law:
  - a. "Chief and Council" means Chief and Council of Kitasoo Indian Band;
  - b. "Community" means Klemtu or any and all other reserves of Kitasoo Indian Band;
  - c. "Kitasoo" means the Kitasoo Indian Band, Chief and Council acting in that capacity, and other persons acting on authority of the Kitasoo Indian Band;

- d. "Panel" means a panel of individuals appointed by Chief and Council pursuant to this By-Law;
- e. "Infectious Disease" means COVID-19 or such other infectious disease as may be designated by Chief and Council;
- f. "Intoxicant" includes alcohol, alcoholic, spirituous, vinous, fermented, malted or other intoxicating liquor or combination of liquors and mixed liquor, a part of which is spirituous, vinous, or otherwise intoxicating, and all drinks, drinkable liquids, preparations or mixtures, capable of human consumption, that are intoxicating;
- g. "Officer" means any police officer, member of the RCMP, peace officer, or other person charged with the duty to preserve and maintain the public peace, and any person appointed by Chief and Council for the purpose of maintaining law and order and/or the enforcement of by-laws in the Community;
- h. "Special Occasion" includes, but is not limited to weddings, birthdays, anniversaries, feasts, or community banquets.

### **Prohibition**

- 2. No person shall acquire, import, sell, barter, trade, supply, manufacture or possess intoxicants in the Community at this time and until this By-Law expires or is rescinded, except in accordance with this By-Law.

### **Sale and Supply of Intoxicants**

- 3. Kitasoo may acquire, import, possess, sell and supply intoxicants for use in the Community.
- 4. Kitasoo may offer for sale intoxicants at the Kitasoo band office or such other place as it may designate, for sale to residents of the Community, subject to the conditions set out in this By-Law, and to any conditions or restrictions that may be established by the Panel.
- 5. Unless otherwise decided by the Panel, each resident of the Community shall be eligible to purchase a maximum of one flat (24 x 12 oz cans) of beer within a seven day period.
- 6. Notwithstanding any other provision in this By-Law or any other By-Law, Kitasoo and/or those persons designated by Kitasoo to sell intoxicants under this By-Law shall have the absolute discretion to refuse to sell, or to limit the sale, of intoxicants to any person, if Kitasoo or its designate has reason to believe:
  - a. that the sale of intoxicants to that person presents a risk of harm to the health or safety of that person and/or that of others; or

- b. that the person has not with complied this By-Law or with any conditions relating to the acquisition, import, sale, barter, trade, supply, manufacture, possession or consumption of intoxicants, or any other By-Law relating to the health of the community and the prevention of the spread of infectious disease (including any regulations or policies thereunder); or
- c. that person is at risk of not complying with this By-Law or with any conditions relating to the acquisition, import, sale, barter, trade, supply, manufacture, possession, or consumption of intoxicants, or any other By-Law relating to the health of the Community and the prevention of the spread of infectious disease (including any regulations or policies thereunder).

### **Conflict – Intoxicant Control By-law**

- 7. This By-Law applies notwithstanding the KITASOO Intoxicant Control By-Law, No. 1991-1, which remains in effect, except to the extent of any conflict or inconsistency with any provision of this By-Law. If there is a conflict or inconsistency between a provision of this By-Law and a provision of the Intoxicant Control By-Law, the provision of this By-Law prevails to the extent of the conflict or inconsistency.

### **Application for Exemption**

- 8. A person may make an application to the Panel, at least 7 full business days prior to the proposed date, for an exemption from s. 2 permitting them to (a) import and possess intoxicants in the Community not purchased from KITASOO, or (b) purchase and possess a quantity of intoxicants in excess of the amount prescribed under s. 5, in such amounts as may be prescribed by the Panel, in its absolute discretion, for the purpose of a Special Occasion.
- 9. The Panel may, pursuant to a process established by the Panel, grant an application made pursuant to s. 8, provided that the applicant has satisfied the Panel, in its absolute discretion and based on the advice of a health professional designated for that purpose by Chief and Council, that the proposed importation and possession of intoxicants does not pose any undue health or safety risk to any person or persons.

### **Panel may Adopt Regulations and Policies and Impose Conditions**

- 10. The Panel is hereby authorized, from time to time, in accordance with applicable health guidelines:
  - a. to adopt regulations or policies to provide for further classes of exemptions from s. 2;
  - b. to adopt regulations or policies to guide the granting of applications pursuant to s. 9;

- c. to attach conditions to the sale of intoxicants to any or all purchasers of intoxicants, to any exemptions, or any granted applications; and
- d. to rescind or modify these regulations, policies or conditions as necessary.

And any such regulations, policies or conditions shall have the force of law pursuant to the present By-Law.

### **Enforcement**

- 11. Any Officer is hereby authorized to take all reasonable measures to enforce this By-Law, including the search and seizure of intoxicants coming into the Community via ferry, plane, or boat, and search and seizure of individuals and property in the Community where there are reasonable and probable grounds to suspect the unauthorized sale, supply, barter, manufacture, or possession of intoxicants.

### **Offence**

- 12. A person who contravenes section 2 commits an offence against this By-law.
- 13. Every person who commits an offence against this By-law is liable on summary conviction to a fine of not more than \$1,000 or imprisonment for a term not exceeding 30 days, or both.

### **Coming into Force**

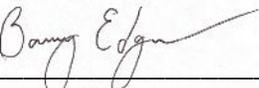
- 14. This By-Law comes into force immediately upon publication on the Kitasoo Indian Band's internet site, or other valid form of publication pursuant to section 86 of the *Indian Act*.
- 15. This By-Law shall remain in force at a minimum for the duration of the state of emergency in the province of British Columbia ("BC").
- 16. Chief and Council shall meet within 14 days following the end of BC's state of emergency to decide whether to further extend or rescind the By-Law, and if they decide to so extend, for what period.
- 17. If Chief and Council decide to extend the By-Law in accordance with s. 10 or, thereafter, in accordance with this section, Chief and Council shall meet within 7 days prior to the end of any such the extension period to decide whether to further extend the By-Law and, if so, by what further period.

**THIS BY-LAW IS HEREBY** made at a duly convened meeting of the Council of Kitasoo Indian Band this 30th day of June, 2020.

Voting in favour of the By-Law are the following members of the Council:

  
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Chief Councillor

  
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Councillor

  
\_\_\_\_\_  
Councillor

  
\_\_\_\_\_  
Councillor

  
\_\_\_\_\_  
Councillor

being the majority of those members of the Council of the First Nation present at the aforesaid meeting of the Council.

The quorum of the Council is 4 members.

Number of members of the Council present at the meeting: 5