

KITASOO INDIAN BAND

BY-LAW RESPECTING EMERGENCY MEASURES TO PREVENT THE SPREAD OF INFECTIOUS DISEASE, OBSERVANCE OF LAW AND ORDER & PREVENTION OF DISORDERLY CONDUCT

BY-LAW NO. #004

Enacted on the 13th day of July, 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 section 81(1)(c) of the *Indian Act*, empowers the Chief and Council of Kitasoo to make by-laws in regard to the observance of law and order;

AND WHEREAS section 81(1)(d) of the *Indian Act*, empowers the Chief and Council of Kitasoo to make by-laws in regard to the prevention of disorderly conduct and nuisances;

AND WHEREAS it is necessary, in order to ensure the health of the community and to prevent the spread of infectious disease, to take immediate, pro-active measures in the case of an individual failing to observe law and order, and/or engaging in disorderly conduct;

AND WHEREAS the Chief and Council desires to make a by-law to prevent the spreading of contagious and infectious diseases, to ensure the observance of law and order and to prevent disorderly conduct and nuisance, 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. "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;

Prohibition

- 2. No person shall:
 - a. endanger the health of residents;
 - b. fail to prevent the spread infectious disease; or
 - c. engage in disorderly conduct, or fail to observe law and order, including but not limited to:
 - i. Public intoxication;
 - ii. Engaging in acts of violence toward one or more individuals;
 - iii. Uttering threats;
 - iv. Causing a nuisance;
 - d. Generally failing to observe law and order.

Panel may order the temporary removal of an individual from the Community

- 3. Where the Panel has reasonable and probable grounds to believe that a person has contravened s. 2, the Panel may, with or without notice to such person, order:
 - a. the immediate, temporary removal of that individual from the Community; and/or
 - b. such other measures as, in the opinion of the Panel, will preserve the health of the Community, prevent the spread of infectious disease, and ensure the prevention of disorderly conduct and the observance of law and order.

4. Subsequent to issuing an order pursuant to s. 3, the Panel shall convene a hearing, on notice to the person, to consider whether to rescind, confirm, extend or modify its previous order.
5. Such a hearing:
 - a. Must be held no sooner than 7 days after reasonable notice has been given to the person, unless (i) that person otherwise agrees, or (ii) the person has evaded notice, or (iii) cannot reasonably be provided with notice;
 - b. Must be held within 21 days of the original order, unless (i) the person consents; or (ii) the Panel extends that period on reasonable grounds;
 - c. May be held in person or by remote means, including teleconference or videoconference, in the discretion of the Panel.
6. Any terms or conditions, including temporary removal of the person, may be extended for a further period or periods, which may last up to for as long as this By-Law remains in force in accordance with sections 13-16 inclusive.
7. A person subject to removal or other terms or conditions may apply to the Panel to have that removal rescinded or shortened, or those conditions removed or modified, on the grounds that there has been a material change in circumstances since the order was issued.

Panel may Adopt Regulations or Policies

8. The Panel is hereby authorized, from time to time, to adopt regulations or policies to assist in the fulfilment or its mandate pursuant to this By-Law not otherwise inconsistent with this By-Law.
9. Any such regulations, policies or conditions shall have the force of law pursuant to the present By-Law.

Enforcement

10. Any Officer is hereby authorized to take all reasonable measures to enforce this By-Law.

Offence

11. A person who contravenes section 2 commits an offence against this By-law.
12. A person who fails to comply with an order by the Panel pursuant to ss. 3-7 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 Kitsoo 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 Kitsoo Indian Band this _____ day of July, 2020.

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



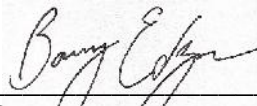
Chief Councillor



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