

EHATTESAHT/CHINEHKINT FIRST NATION

INFECTIOUS DISEASE RESPONSE BY-LAW NO. 2020- 100

This by-law may be cited as the *Infectious Disease Response By-Law*

A BY-LAW to provide for timely and effective response to infectious disease outbreaks in order to protect Ehattesaht/Chinehkint First Nation (ECFN) and its reserve lands and members;

WHEREAS the *Indian Act*, RSC 1985, c. I-5, s. 81(1)(a) empowers ECFN to make by-laws [...] to “provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases”;

WHEREAS the *Indian Act* also empowers ECFN to make by-laws with respect to the regulation of traffic (s. 81(1)(b)), the observance of law and order (s. 81(1)(c)), the prevention of disorderly conduct and nuisances (s. 81(1)(d)), the control or prohibition of public games, sports, races, athletic contests and other amusements (s. 81(1)(m)), the removal and punishment of persons trespassing on the reserve or frequenting the reserve for prohibited purposes (s. 81(1)(p), and with respect to any matter arising out of or ancillary to the exercise of powers under section 81(1) (s. 81(1)(q));

WHEREAS the spread of the Covid-19 virus in 2020 has been declared a global pandemic by the World Health Organization, and a state of emergency has been declared by the government of British Columbia;

WHEREAS past infectious disease epidemics have disproportionately impacted First Nation communities, and particularly isolated First Nation communities, including ECFN;

WHEREAS the reserves of ECFN are located in remote locations with limited access and infrastructure, and ECFN has limited resources to address emergencies on reserve;

AND WHEREAS ECFN wishes to take active measures to safeguard and protect the health of members of its community and residents of its reserve lands from the spreading of Covid-19 as well as any future infectious diseases that may present a risk to ECFN;

NOW THEREFORE the Council of ECFN hereby enacts the following by-law:

Short Title

- 1 This by-law may be cited as the “*Infectious Disease Response By-Law*”.

Interpretation

- 2 In this by-law:

“**Band Council Resolution**” means a formal, written resolution passed by a quorum of Council at a duly convened meeting of Council;

“**Council**” means the duly elected Council, as defined in the *Indian Act*, of the Ehattesaht/Chinehkint First Nation;

“**Declaration**” means a Declaration of Disease Emergency issued by Council in accordance with section 4 of this by-law, and includes a renewal of a Declaration;

“**Ehattesaht/Chinehkint**” or “**Ehattesaht/Chinehkint First Nation**” or “**Nation**” means the Ehattesaht/Chinehkint First Nation, a “band” as defined under the *Indian Act*;

“infectious disease” means an infectious human disease that poses a risk of significant harm to individual and public health;

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

“Officer” means an enforcement officer appointed under this by-law, or a member of the RCMP;

“Order” means an order issued by Council in accordance with section 11 of this by-law;

“reserve” means any tract of land, the legal title to which is vested in Her Majesty for the use and benefit of the Nation; and

Words of one gender used in this by-law include all genders, and words in the singular include the plural and vice versa.

Application

- 3 This by-law applies to all ECFN reserve lands.

Declaration of Disease Emergency

- 4 Where Council determines there to be a risk of harm to the health of ECFN or its members from an infectious disease, it may issue a Declaration of Disease Emergency by way of Band Council Resolution.
- 5 In determining whether to issue or renew a Declaration, Council may consider the following:
- (1) any recommendations made by the hereditary Ha’with, or other persons with relevant knowledge or expertise;
 - (2) any statements, positions, measures or orders taken or issued by the Province of British Columbia or government of Canada;
 - (3) any statements or positions taken by the World Health Organization;
 - (4) the characteristics of the infectious disease, including geographic range and rate of spread;
 - (5) vulnerabilities of the ECFN community; or
 - (6) any other factor it deems relevant under the circumstances.
- 6 A Declaration issued by Council will specify the circumstances that constitute the disease emergency.
- 7 A Declaration expires 180 days after the date of issuance and may be renewed by Band Council Resolution.
- 8 Council may cancel or amend a Declaration at any time by Band Council Resolution.
- 9 In urgent circumstances, the Chief or Acting Chief may issue or amend a Declaration without a formal Council meeting or Band Council Resolution, so long as:
- (1) a quorum of Council confirms support for the Declaration with the Chief or Acting Chief by reliable means of communication; and

- (2) a formal Band Council Resolution is issued in accordance with section 4 of this by-law as soon as reasonably practicable following issuance of the Declaration.

Disease Emergency Response

- 10 Once a declaration is issued, Council may take any steps it determines appropriate in developing and implementing ECFN's response to an infectious disease emergency including appointing Officers for the purposes of enforcing this by-law and Orders issued pursuant to it, and monitoring and overseeing enforcement.
- 11 In considering potential actions, Council may solicit and consider any input from hereditary Ha'with.

Orders by Council

- 12 Council may, by Band Council Resolution, adopt, make or amend such Orders in relation to matters of infectious disease response as it determines appropriate, including in respect of the following matters:
- (1) required personal preventative measures, including sanitary measures;
 - (2) isolation and monitoring requirements;
 - (3) establishment of curfews of general effect or applying to specified areas on reserve;
 - (4) regulation of entry into or presence within specified areas, including public spaces, businesses, or other buildings on reserve;
 - (5) access to reserve, including limits or restrictions on such access, by ECFN members and non-members;
 - (6) measures limiting behaviour on reserve, including restrictions on physical proximity or gatherings of specified sizes; and
 - (7) exceptions for essential service providers, and the conditions of those exceptions.
- 13 In urgent circumstances, the Chief or Acting Chief, may adopt, make or amend an Order without a formal Council meeting or Band Council Resolution, so long as:
- (1) The Chief or Acting Chief has, to the extent reasonably practicable having regard for the circumstances, consulted with Council;
 - (2) a quorum of Council confirms support for the Order or amendment with the Chief or Acting Chief by reliable means of communication; and
 - (3) a formal Band Council Resolution is issued in accordance with section 16 of this by-law as soon as reasonably practicable following issuance of the Order.

Posting of Orders

- 14 Council will post Orders issued, including amendments of Orders, in prominent locations on reserve, and on the Nation's website.

Effect of cancellation of Declaration

- 15 Where a Declaration is cancelled by Council, any Orders enacted by Council are immediately void and of no effect.

Enforcement of Orders and penalties

Notice of Violation

- 16** If satisfied that a person is in violation of one or more Orders, or on the direction of Council where it has come to that conclusion, an Officer will issue a Notice of Violation to that person, which will include:
- (1) the Order violated;
 - (2) particulars of the violation;
 - (3) a further order to comply with the violated Order.
- 17** A Notice of Violation may include a requirement that the person to whom it is issued attend before Council for questioning or reprimand.
- 18** No person shall disobey a Notice of Violation issued to them.
- 19** A Notice of Violation issued under section 16 of this by-law constitutes authority to an Officer to take all lawful steps reasonably required to cause the person to whom it has been issued to comply with the relevant Order.

Suspension of benefits to members

- 20** Where a ECFN member fails to comply with the terms of a Notice of Violation, and Council has taken all reasonable steps to seek compliance, Council may require suspension of discretionary benefits provided by the Nation that would otherwise have been available to that member.
- 21** In the circumstances described in section 20 of this by-law, the member will be provided a further opportunity to appear before Council and be heard before Council will give effect to the suspension of benefits.

Offence

- 22** Any person contravening any of the provisions of this by-law or an Order issued pursuant to its provisions, or impeding, interfering with or hindering an Officer in the discharge of his or her duties under this by-law, will be liable on summary conviction to a fine not exceeding one thousand (\$1,000) dollars or to imprisonment for a term not exceeding thirty (30) days, or to both fine and imprisonment.

No liability

- 23** No person, including, without limitation, the Nation, Council members, Officers or any other persons appointed, authorized or requested to carry out measures relating to infectious disease response, is liable for any loss, cost, expense, damages to property or injury to or death of persons that result from the person in good faith doing or omitting to do any act that the person is appointed, authorized or required to do under this by-law, unless, in doing or omitting to do the act, the person was grossly negligent.

Severability

- 24** If any part or section of this by-law is declared or adjudged by a court to be invalid or unenforceable, such invalidity or unenforceability will not affect the validity or enforceability of any other part or section of this by-law.

General

25 This by-law will come into force when it is enacted by Council.

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THIS BY-LAW IS HEREBY enacted at a duly convened meeting of Council of the Ehattesaht/Chinehkint First Nation this 07 day of December, 2020.



Chief Simon John



Cory Hanson, Councillor

Ashley John, Councillor



Tim John, Councillor



Ernie Smith, Councillor

The quorum of Council is three (3) Councillors.