



OKANAGAN INDIAN BAND

COVID-19 EMERGENCY MEASURES BYLAW

BYLAW NO. _____

WHEREAS on March 17, 2020, the government of British Columbia declared a state of emergency on the basis that the novel coronavirus (“**COVID-19**”) pandemic constitutes a public health emergency (the “**Declaration of Emergency**”);

AND WHEREAS the Declaration of Emergency allows the government of British Columbia to implement any provincial emergency measures required with respect to access to land and human resource assets that may be necessary to prevent, respond to or alleviate the effects of the emergency;

AND WHEREAS the Silyx of the Okanagan Indian Band historically suffered epidemics of disease, including smallpox, tuberculosis and measles, which were transmitted through persons bringing diseases to the Okanagan region;

AND WHEREAS past disease epidemics disproportionately impacted First Nation communities and decimated First Nation populations in the Okanagan region;

AND WHEREAS the Silyx of the Okanagan Indian Band have inhabited their territory since time immemorial, developed sophisticated governance structures and a legal order that existed for thousands of years prior to European contact, and have inherent jurisdiction over their lands and resources;

AND WHEREAS the Silyx of the Okanagan Indian Band’s inherent jurisdiction and rights include the right to protect and promote health and safety within OKIB Lands;

AND WHEREAS the Silyx of the Okanagan Indian Band’s inherent rights are recognized and affirmed by section 35 of the *Constitution Act, 1982*;

AND WHEREAS the Council of the Silyx of the Okanagan Indian Band are the duly elected governing body over the lands and people under their care and control;

AND WHEREAS the Council has the responsibility and authority to act in the public interest and to protect the health and safety of Members and other persons who ordinarily reside on OKIB Lands;

COVID-19 Emergency Measures Bylaw, 2020

AND WHEREAS Council has learned from past epidemics and wishes to prevent an outbreak of COVID-19 on OKIB Lands;

AND WHEREAS on March 31, 2020, the Okanagan Indian Band published a Pandemic Response Plan;

AND WHEREAS on April 9, 2020, Council issued a media statement requesting that all non-Okanagan and non-residents (tourists/visitors) stay away from OKIB Lands during the current COVID-19 pandemic;

AND WHEREAS section 81 of the *Indian Act* provides that the Council may make bylaws for any or all of the following purposes:

- (a) To provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases;
- (b) The observance of law and order;
- (c) With respect to any matter arising out of or ancillary to the exercise of the aforementioned powers; and
- (d) The imposition on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both, for violation of a bylaw made under section 81 of the *Indian Act*.

NOW THEREFORE the Council of the Silyx of the Okanagan Indian Band at a duly convened meeting enacts as a bylaw the following:

1. TITLE

1.1 This bylaw may be cited as the “*COVID-19 Emergency Measures Bylaw, 2020*”.

2. INTERPRETATION

2.1 In this Bylaw the following definitions shall apply, unless the context requires otherwise:

- (a) “**Bylaw**” means this *COVID-19 Emergency Measures Bylaw, 2020*;
- (b) “**Council**” means the governing body of OKIB, duly elected pursuant to the *Indian Act*;
- (c) “**Covering**” means wearing personal protective equipment such as masks, gloves, and other coverings to prevent the spread of COVID-19;
- (d) “**COVID-19**” has the definition provided in the recitals to this Bylaw;
- (e) “**Curfew**” has the meaning provided at section 9.1 of this Bylaw;
- (f) “**Declaration of Emergency**” has the definition provided in the recitals to this Bylaw;
- (g) “**Director**” means the person holding the position of executive director or chief administrative officer of OKIB or their delegate;

COVID-19 Emergency Measures Bylaw, 2020

- (h) “**Distancing**” means the requirement to maintain a physical distance of at least two (2) meters between persons who do not reside in the same Home;
- (i) “**Essential Service Providers**” means those persons who provide essential services on OKIB Lands regardless of the location of their primary place of habitation or Home, including such services as health, law enforcement, public safety, first responders and emergency response, services for Vulnerable Persons, critical infrastructure, services related to the handling and dealing with unexploded ordinance, services related to construction and construction-related activities, the delivery of Band programs and services including educations, food and agriculture, transportation, industry and manufacturing, sanitation, communications and information technology, legal, and financial services;
- (j) “**Health Authority**” means the BC Centre for Disease Control or the Public Health Agency of Canada;
- (k) “**Home**” means a dwelling unit used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities;
- (l) “**Indian Act**” means the *Indian Act*, RSC 1985, c I-5;
- (m) “**Large Urban Centre**” means an urban area with a population of 100,000 or more;
- (n) “**Members**” means the members of OKIB, regardless of the location of their primary place of habitation or Home;
- (o) “**Non-Ordinary Resident**” means:
 - (i) a person who maintains a secondary place of residence on OKIB Lands; or
 - (ii) an invitee, visitor, or tourist;and unless otherwise provided for in section 2.5, a Non-Ordinary Resident is not an Ordinary Resident, a Member, Staff, or Essential Service Provider.
- (p) “**Officer**” means a peace officer, a bylaw enforcement officer appointed by Council, or a member of the Royal Canadian Mounted Police;
- (q) “**OKIB**” means the Okanagan Indian Band, a “band” within the meaning of the *Indian Act*;
- (r) “**OKIB Lands**” means all OKIB reserve lands;
- (s) “**Order**” has the meaning set out at section 13.1 of this Bylaw;
- (t) “**Ordinary Resident**” means a person whose primary place of habitation or Home is located on OKIB Lands, and a person may only have one primary Home;
- (u) “**Preventative Measures**” means the measures and actions described under section 4 of this Bylaw;
- (v) “**Self-Isolate**” means to stay inside a Home and avoid situations where a person may come into contact with another person, including within the Home, as described by a Health Authority;
- (w) “**Self-Monitor**” means to check oneself each day for fourteen (14) days for the

COVID-19 Emergency Measures Bylaw, 2020

symptoms of COVID-19, as described by a Health Authority;

- (x) “**Staff**” means any staff, employees, or agents of OKIB, regardless of the location of their primary place of habitation or Home;
- (y) “**Vulnerable Persons**” means persons whose primary place of habitation or Home is located on OKIB Lands and who are at greater risk of harm from COVID-19, including:
 - (i) Elders; and
 - (ii) Persons:
 - (A) at risk due to:
 - (1) underlying medical conditions (for example, heart disease, hypertension, diabetes, chronic respiratory diseases, cancer); or
 - (2) a compromised immune system from a medical condition or treatment (for example chemotherapy); or
 - (B) who have difficulty:
 - (3) reading, speaking, understanding or communicating; or
 - (4) accessing medical care or health advice; or
 - (5) doing preventive activities, like frequent hand washing and covering coughs and sneezes; or
 - (C) who have difficulty with ongoing:
 - (6) specialized medical care or require specific medical supplies; or
 - (7) supervision requirements or support for maintaining independence.

2.2 Any reference to days, months or years means calendar days, months or years, unless otherwise specified.

2.3 Any reference to a statute, regulation, law or bylaw means as amended, revised, consolidated or replaced from time to time.

2.4 Any reference to the singular shall be held to mean and include the plural and vice versa.

2.5 In the circumstance that a person is a Non-Ordinary Resident and is also:

- (a) any one or more of an Essential Service Provider or Staff, such person may, notwithstanding section 3.2(d), enter onto and travel across OKIB Lands in the course of the performance of their duties as any one or more of an Essential Service Provider or Staff pursuant to section 3.2(c), and, shall not, if applicable, enter onto OKIB Lands for the purpose of attending at their secondary place of residence located on OKIB Lands until section 3.2(d)(i) or 3.2(d)(ii) are satisfied; or
- (b) a Member, such person may enter onto, travel across, and remain on OKIB Lands pursuant to section 3.2(a).

3. ENTRY TO OKIB LANDS

3.1 Every person who wishes to enter onto OKIB Lands must abide by the terms of this Bylaw.

3.2 Entry to OKIB Lands is subject to the following restrictions:

- (a) Members may enter onto, travel across, and remain on OKIB Lands;
- (b) Ordinary Residents may enter onto, travel across, and remain on OKIB Lands;
- (c) Subject to sections 3.3, 3.4, and 8.5 Essential Service Providers and Staff who are not Members or Ordinary Residents may enter onto and travel across OKIB Lands provided that they limit their access to areas of OKIB Lands reasonably related to the performance of their duties;
- (d) Unless otherwise provided for in section 2.5 or in an Order under section 13.2, Non-Ordinary Residents of OKIB Lands must not return to or enter OKIB Lands until:
 - (i) Council has issued a statement that it is safe to do so; or
 - (ii) The Declaration of Emergency is no longer in effect.

3.3 Essential Service Providers must continuously Self-Monitor and if they observe that they have any symptoms of COVID-19 as described by a Health Authority, or have other reason to believe that they may have been exposed to COVID-19, and they are not a Member or an Ordinary Resident, then they must remove themselves from OKIB Lands and not enter OKIB Lands.

3.4 Staff must continuously Self-Monitor and if they observe that they have any symptoms of COVID-19 as described by a Health Authority, or have other reason to believe that they may have been exposed to COVID-19, and they are not a Member or Ordinary Resident, then they must remove themselves from OKIB Lands and not enter OKIB Lands.

3.5 Every person who enters, travels across, or remains on OKIB Lands must abide by posted signs providing information and direction regarding public health and safety or matters related to COVID-19.

4. PREVENTATIVE MEASURES

4.1 All persons on, or who enter OKIB Lands, must abide by the following Preventative Measures:

- (a) Washing their hands often with soap and hot water or using alcohol based sanitizer;
- (b) Trying to avoid the frequent touching of their face;
- (c) Covering their mouth when they cough;
- (d) Cleaning, on a frequent basis, common spaces, surfaces and objects such as shared kitchens, shared sleeping spaces, and doorknobs and faucets in common areas;
- (e) Distancing;
- (f) Sanitizing material brought into the Home;
- (g) Avoiding the use of shared personal items;
- (h) Staying Home when sick;
- (i) Working at Home if possible;
- (j) Wearing a mask in situations where it may be difficult to maintain Distancing, such

as when they are shopping or using public transportation; and

- (k) Avoiding non-essential outings.

5. DISTANCING

5.1 Every person on OKIB Lands must participate in Distancing when they are outside the Home, including:

- (a) When they are in public and communal spaces;
- (b) At gatherings or other places where multiple persons are present, including on private property; and
- (c) At a workplace.

6. ISOLATION AND MONITORING

6.1 Any person who:

- (a) Enters onto OKIB Lands from travelling outside Canada;
- (b) Experiences or shows any symptoms of COVID-19; or
- (c) Believes that they may:
 - (i) have come into contact with a person with COVID-19; or
 - (ii) otherwise have been exposed to COVID-19;

must Self-Isolate and Self-Monitor.

6.2 Any person who:

- (a) Has come into contact with a person who has been travelling outside of Canada; or
- (b) Enters onto OKIB Lands from:
 - (i) out-of-province; or
 - (ii) from a Large Urban Centre;

must Self-Monitor.

6.3 Without limiting anything else in this Bylaw, any person who suspects that they may have COVID-19 must Self-Monitor and Self-Isolate.

7. VULNERABLE PERSONS

7.1 Every person, including any applicable Essential Service Providers, who provides care or other services to Vulnerable Persons, must:

- (a) Participate in Covering;
- (b) Limit contact with Vulnerable Persons as much as possible;
- (c) Use sanitized products;
- (d) Sanitize material, packaging, and hard surfaces that may come into proximity with Vulnerable Persons;

COVID-19 Emergency Measures Bylaw, 2020

- (e) Participate in Distancing to the maximum degree possible;
- (f) Regularly wash clothing; and
- (g) Diligently abide by the Preventative Measures.

7.2 Any person who provides services to Vulnerable Persons must Self-Monitor on a continuous basis during the period of time they provide such services, and must immediately cease providing services to Vulnerable Persons if they have reason to believe they have been exposed to COVID-19.

8. WORKS AND SERVICES

8.1 Essential Service Providers engaged in the handling and dealing with unexploded ordinance may continue to carry out such work without limitation, provided that they practice Preventative Measures and Distancing to the extent possible.

8.2 Without limiting anything else in this Bylaw, Essential Service Providers engaged in construction and construction-related activities on OKIB Lands may continue to do so on OKIB Lands, in accordance with the following:

- (a) Any construction and construction-related activities by or under direction of OKIB may continue;
- (b) Construction and construction-related activities in connection with necessary maintenance or repairs on OKIB Lands may continue;
- (c) The Director may authorize construction and construction-related activities where:
 - (i) the suspension of ongoing construction and construction-related activities would negatively impact the work on a significant basis;
 - (ii) the construction and construction-related activities will assist OKIB to protect the health of persons on OKIB Lands and to prevent the spreading of contagious and infectious diseases;
 - (iii) construction and construction-related activities are required to proceed in accordance with a particular schedule of construction; or
 - (iv) where the construction and construction-related activities are in the public interest.

8.3 All Essential Service Providers engaged in construction and construction-related activities must maintain Preventative Measures and Distancing to the extent possible.

8.4 All construction and construction-related activities must take place only from 8:00 am to 8:00 pm.

8.5 Essential Service Providers and Staff who are not a Member or are not an Ordinary Resident, must leave OKIB Lands as soon as their work ends on each day.

8.6 Any person overseeing or directing work on OKIB Lands must ensure there are adequate personal protective equipment and Preventative Measures in place at each work site, including the provision of plastic barriers and cleaning materials, and, shall ensure that the work site is regularly disinfected following any incidents that may increase the risk of transmission of COVID-19.

COVID-19 Emergency Measures Bylaw, 2020

8.7 Any Staff providing services and Essential Service Providers engaged in construction and construction-related activities on OKIB Lands must Self-Monitor on a continuous basis during the period of time they provide such services and activities and must immediately cease providing the services and activities if they have reason to believe they have been exposed to COVID-19.

9. CURFEW

9.1 Access to OKIB Lands by any persons may be restricted to between the hours of 7:00 am and 11:00 pm of each day (“**Curfew**”).

9.2 The Director may implement a Curfew where a curfew:

- (a) Has been imposed:
 - (i) by the Government of British Columbia anywhere within the boundary of the *Interior Region*, as referenced by the *First Nations Health Authority*; or
 - (ii) in any one or more:
 - (A) neighbouring municipalities or regional districts; or
 - (B) First Nation communities within the boundary of the *Interior Region*, as referenced by the *First Nations Health Authority*; or
- (b) Is otherwise necessary to protect the health of persons on OKIB Lands and to prevent the spreading of contagious and infectious diseases.

10. REMOVAL

10.1 Any Non-Ordinary Resident, Staff who is not a Member or Ordinary Resident, or Essential Service Provider who is not a Member or Ordinary Resident, who contravenes this Bylaw, may be ordered to leave OKIB Lands by the Director or an Officer.

10.2 Any person who remains on OKIB Lands after having been ordered to leave OKIB Lands, pursuant to this section 10, commits trespass.

10.3 Pursuant to this section 10, the Director or an Officer is authorized to use all lawful means to have a person ordered to leave OKIB Lands removed from OKIB Lands.

11. PENALTY

11.1 Any person who fails to comply with any provision in this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding thirty days, or to both.

11.2 Each day that a contravention of a provision of this Bylaw continues is a separate offence.

11.3 The imposition of a fine does not preclude OKIB from enforcement and remedy by other proceedings available to it by law.

11.4 The authority under this section is in addition to any other remedy or penalty available which may be exercised whether or not a penalty has been imposed for the contravention.

11.5 Nothing in this Bylaw affects the civil liability of a person who contravenes a provision of this Bylaw.

11.6 The Director or an Officer may enforce this Bylaw and may administer any penalties pursuant to this Bylaw.

12. COUNCIL DIRECTION

12.1 The Director is authorized to administer this Bylaw provided that the Director shall consult with Council in accordance with OKIB's usual practices during the administration of this Bylaw.

13. ORDERS

13.1 Council may make any orders it deems necessary to protect the health of persons on OKIB Lands and to prevent the spreading of contagious and infectious diseases ("**Order**").

13.2 Council may make Orders to allow Non-Ordinary Residents to enter onto OKIB Lands in specific circumstances, including:

- (a) To access businesses or other establishments located on OKIB Lands; and
- (b) To permit Non-Ordinary Residents to deliver and install improvements to OKIB Lands, such as mobile Homes, modular housing, or other prefabricated structures.

13.3 An Order under section 13.2 may prescribe terms and conditions for the protection of the OKIB community, such as:

- (a) Limits on the number of persons who may attend at a business or an establishment at any one time;
- (b) Hours of access to OKIB Lands; and
- (c) Requiring certain Preventative Measures to be in place at businesses or other establishments located on OKIB Lands;

13.4 All Orders shall be publicly available and posted on the OKIB website.

13.5 Any person in contravention of an Order is subject to removal from OKIB Lands pursuant to section 10 of this Bylaw, is liable for any penalties under section 11 of this Bylaw, and may be subject to any other enforcement measures available to OKIB by law.

14. SEVERANCE

14.1 Each section of this Bylaw shall be severable. If any provision of this Bylaw is held to be illegal or invalid by a Court of competent jurisdiction, the provision may be severed and the illegality or invalidity shall not affect the validity of the remainder of the Bylaw.

15. BYLAW COMING INTO FORCE

15.1 This Bylaw shall come into force on the date it is first published:

- (a) On an internet site, such as the OKIB website;
- (b) In the First Nations Gazette; or
- (c) In a newspaper that has general circulation on OKIB Lands.

15.2 Council will provide a hardcopy of the Bylaw to any person who requests a copy.

COVID-19 Emergency Measures Bylaw, 2020

BE IT KNOWN that this Bylaw entitled, “*COVID-19 Emergency Measures Bylaw, 2020*” is hereby read for the first, second, and third and final time and is **HEREBY ENACTED** as Bylaw No. _____ by the Council of the Okanagan Indian Band at a duly convened meeting of Council held on the _____ day of _____, 2020.

Voting in favour of this bylaw are the following members of Council:

Chief Byron Louis

Councillor Cindy Brewer

Councillor Valerie Chiba

Councillor Timothy Isaac

Councillor Garrett Lawrence

Councillor Allan Louis

Councillor Ryan Oliverius

Councillor Sheldon Louis

Councillor Sharon Cullen

Councillor Dan Wilson

Councillor Leland Wilson

being a majority of those members of Council of Okanagan Indian Band present at the aforesaid meeting of Council.

The Quorum of Council is _____ members.

Number of members of Council present at the meeting: _____.