

TSLEIL-WAUTUTH COVID-19 VIRUS COMMUNITY PROTECTION BY-LAW, 2020

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PART I. PRINCIPLES

WHEREAS An emergency exists as a result of the potential presence of novel coronavirus COVID-19 (“COVID-19”) on Tsleil-Waututh Lands and elsewhere in British Columbia which poses risks to Tsleil-Waututh Lands and Members;

WHEREAS COVID-19 is a communicable disease and carries risks of fever, pneumonia, and in the most serious cases, a risk of death;

WHEREAS the spread of COVID-19 has been declared a pandemic by the World Health Organization;

WHEREAS Council consider it necessary to adopt social distancing, restrictions on public gatherings, and restrictions on the use of Tsleil-Waututh Lands to reduce the risk of spreading COVID-19;

WHEREAS Council considers it advisable to enact a By-law to address risks regarding COVID-19, and paragraphs 81(1)(a), (c), and (p) of the Indian Act recognize Council’s power to enact By-laws:

- (a) “to provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases”;
- (c) “the observance of law and order”; and
- (p) “the removal and punishment of persons trespassing on the reserve or frequenting the reserve for prohibited purposes”

NOW THEREFORE BE IT RESOLVED THAT the Tsleil-Waututh COVID-19 Virus Community Protection By-law, 2020 is hereby enacted as a By-law of Tsleil-Waututh.

PART II. TITLE

2.1 This By-law may be cited as the *Tsleil-Waututh COVID-19 Virus Community Protection By-law, 2020*

PART III. DEFINITIONS

3.1 The following definitions apply to this By-law:

“Council” means the Chief and Council of Tsleil-Waututh;

“Councillor” means a duly elected band councilor of Tsleil-Waututh;

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

“By-law” means this *Tsleil-Waututh COVID-19 Virus Community Protection By-law, 2020*;

“Member” means a person on the Tsleil-Waututh band membership list or who is entitled to be on the Tsleil-Waututh band membership list;

“Non-Member Residents” means a person who is not a Member but who is authorized to reside on Tsleil-Waututh Lands, under a lease, rental agreement or other written instrument, or who has been invited by a Member to reside at their dwelling;

“Order” means an order made under this By-law;

“Peace Officer” means a peace officer or constable as provided under the *Police Act* employed by the West Vancouver Police Board or a member of the Royal Canadian Mounted Police.

“Tsleil-Waututh Lands” has the meaning as set out in the Tsleil-Waututh Land Code;

“Tsleil-Waututh Official” means a person appointed as a Tsleil-Waututh Official pursuant to this By-law.

PART IV. PURPOSE & APPLICATION

Purpose

4.1 The purpose of this By-law is to provide for the protection of Tsleil-Waututh Lands, the environment, and the health and safety of Members as well as their families by imposing measures to reduce the risk of the spread of COVID-19 on Tsleil-Waututh Lands.

4.2 This By-law is also intended to provide for gradual changes to the measures imposed to reduce the risk of the spread of COVID-19 on Tsleil-Waututh Lands by providing Council and the Tsleil-Waututh Official the discretion to adjust, waive, or eliminate measures otherwise required under this By-law in order to facilitate beneficial activities such as construction, deliveries, and business activity as the COVID-19 pandemic evolves over time.

Application

4.3 The provisions of this By-law apply to all Tsleil-Waututh Lands.

PART V. TSLEIL-WAUTUTH COVID-19 OFFICIALS

Appointment of Tsleil-Waututh Officials

- 5.1 Council may appoint, by Council Resolution, an employee, Councillor, or any other person, to be a Tsleil-Waututh Official for the purposes of this By-law.
- 5.2 A Tsleil-Waututh Official appointed by Council, has the following powers:
- (a) to enforce any of the provisions of this By-law;
 - (b) to waive, delay, or eliminate any requirement or Order previously issued by the Tsleil-Waututh Official under this By-law in individual situations wherever considered appropriate by the Tsleil-Waututh Official, at his or her sole discretion;
 - (c) to issue Orders under this By-law which the Tsleil-Waututh Official is authorized to make as set out in the Council Resolution appointing that Tsleil-Waututh Official;
 - (d) to issue Orders requiring additional social distancing measures;
 - (e) to issue Orders requiring that individuals quarantine themselves for a period up to fourteen days, and to issue supplemental Orders to extend that period of quarantine if considered advisable by the Tsleil-Waututh Official; and
 - (f) to issue fines under this By-law.
- 5.3 Council may decide within the Council Resolution appointing a person as a Tsleil-Waututh Official whether or not that person will receive any additional remuneration for activities carried out under this By-law.

PART VI. INTERIM RESTRICTIONS WITHIN BUSINESSES & OTHER PREMISES

Restrictions on hours of operation and number of occupants

- 6.1 For the purposes of protecting public health, Council may issue Orders restricting the hours of operation, and number of persons entering businesses or other premises on Tsleil-Waututh Lands.
- 6.2 Council may waive, delay, or eliminate any of these restrictions on the hours of operation, and number of persons entering businesses or other premises on Tsleil-Waututh Lands in individual situations wherever considered appropriate by Council, at Council's sole discretion.

Temporary assistance for businesses and Members

- 6.3 To assist businesses operating on Tsleil-Waututh Lands, Council may, at its sole discretion, waive or delay payment of any fees or amounts owed under contracts with Tsleil-Waututh, notwithstanding the requirements of other Tsleil-Waututh Laws, By-laws, or contracts previously entered into by Tsleil-Waututh.
- 6.4 To assist Members, Council may, at its sole discretion, waive or delay payment of any rent or other amounts any Member owes to Tsleil-Waututh.

PART VII. INTERIM RESTRICTIONS ON PUBLIC GATHERINGS

Restrictions on access to Tsleil-Waututh Lands

7.1 No person, other than:

- (a) a Member and their immediate family;
- (b) Non-Member Residents;
- (c) a Tsleil-Waututh employee or a contractor providing services;
- (d) a Peace Officer, within the meaning of the Criminal Code of Canada,
- (e) a coroner;
- (f) a Tsleil-Waututh Official;
- (g) a small-scale delivery person who is delivering mail, parcels, restaurant, grocery or similar items; or
- (h) other persons specifically permitted to do so in advance by Council.

is authorized to enter onto or remain on Tsleil-Waututh Lands while this By-law is in force.

Restrictions and Closure of public facilities

7.2 Council may, at its sole discretion, issue Orders for closure, or restrictions on access to, community facilities on Tsleil-Waututh Lands including, schools and school playgrounds, hockey arenas, and other open recreational spaces.

Social distancing requirements

7.3 In order to protect health and safety, all persons present on Tsleil-Waututh Lands must practice social distancing at all times by maintaining a minimum distance of six (6) feet or more from persons other than those with whom they share or occupy a dwelling.

7.4 In order to protect health and safety, Council, in consultation with appropriate public health officials, may issue additional Orders for social distancing and similar conduct on Tsleil-Waututh Lands.

7.5 Council may waive, delay, or eliminate any social distancing requirement on Tsleil-Waututh Lands in individual situations wherever considered appropriate by Council, at Council's sole discretion.

Restrictions on public gatherings without permission

7.6 No person shall participate in public gatherings, assemblies, or parties involving ten (10) or more persons on Tsleil-Waututh Lands, without the specific written permission of Council.

Restrictions apply to homes and residences

7.7 The restrictions under this By-law on public gatherings, assemblies, or parties apply to residences and spaces on Tsleil-Waututh Lands whether occupied by Members or Non-Member Residents.

7.8 The restrictions under this By-law on public gatherings, assemblies, or parties in private dwellings on Tsleil-Waututh Lands do not apply to the use of those dwellings by persons who ordinarily reside in those private dwellings.

Orders

- 7.9 A Tseil-Waututh Official may issue Orders that persons participating in public gatherings, assemblies, or parties contrary to this By-law cease participating in those public gatherings, assemblies, or parties.

Assistance of Police & Peace Officers

- 7.10 Tseil-Waututh Officials authorized to issue Orders under this By-law may request the assistance of Peace Officers or other individuals to carry out Orders under this By-law.

PART VIII. PARKING RESTRICTIONS

Parking

- 8.1 No person may park a motor vehicle on any Tseil-Waututh Lands, other than lands on which signs have been erected permitting parking.
- 8.2 In addition to parking in areas where signs permit parking
- (a) Members who are ordinarily resident on Tseil-Waututh Lands may park a motor vehicle at their dwelling and lands immediately adjacent to that dwelling; and
 - (b) Council may at its sole discretion decide whether or not to permit any other individual to park a motor vehicle and if so may specify in the permit the approved locations and conditions for parking.

No Parking signs

- 8.3 Council may authorize Tseil-Waututh Officials to post signs restricting or banning parking motor vehicles on any Tseil-Waututh Lands, including any lands on which parking has been permitted in the past if deemed necessary by Council to prevent the risk of the spread of COVID-19, or to ensure that emergency and health officials have access to any Tseil-Waututh Lands.

Removal of Vehicles

- 8.4 Council may authorize Tseil-Waututh Officials to tow or remove vehicles that are parked in violation of this By-law and Tseil-Waututh is not liable for damages to a motor vehicle, impoundment fees or similar costs, or damages incurred by any person affected by the need to tow or remove the motor vehicle.

PART IX. GENERAL

Offence

- 9.1 Any person who:
- (a) does not comply with an Order issued under this By-law;
 - (b) obstructs a Tseil-Waututh Official in the course of their duties under this By-law;

- (c) participates in public gatherings, assemblies, or parties involving ten (10) or more persons on Tsleil-Waututh Lands, without the specific written permission of Council;
- (d) has more than ten (10) people present at any one time in his or her private dwelling;
- (e) fails to remove a motor vehicle when ordered to do so; or
- (f) parks a motor vehicle in contravention of this By-law;

is guilty of an offence and liable on conviction to a fine not exceeding one thousand (\$1,000.00) dollars, imprisonment for up to six (6) months, or both imprisonment and a fine.

By-law applies to Tsleil-Waututh employees and Tsleil-Waututh Council

- 9.2 Employees, representatives and agents of Tsleil-Waututh may be suspended for a period of time specified by Council, or have their employment or contract with Tsleil-Waututh terminated, if they fail to comply with an Order issued under this By-law.
- 9.3 A Councillor may be temporarily suspended from Council, by a majority decision of Council, for a period of time specified by Council if they fail to comply with an Order issued under this By-law.

No liability

- 9.4 None of Tsleil-Waututh, present or past Council, or members, employees, representatives or agents of any of Tsleil-Waututh 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 By-law or any other Tsleil-Waututh By-law, or from the neglect or failure, for any reason or in any manner, to enforce this By-law or any other Tsleil-Waututh By-law.

Limitation Period

- 9.5 Any actions against Tsleil-Waututh (including Council and its employees) for the unlawful doing of anything that:
 - (a) is purported to have been done under the powers conferred by this By-law or any other Tsleil-Waututh law; and
 - (b) might have been lawfully done if acting in the manner established by this By-law,must be commenced within six (6) months after the cause of action first arose.

Required Notice

- 9.6 Tsleil-Waututh is in no case liable for damages unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to Tsleil-Waututh within two (2) months from the date on which the damage was sustained. In the case of the death of a person injured, the failure to give notice required by this section is not a bar to the maintenance

of the action. Failure to give the notice or its insufficiency is not a bar to the maintenance of an action if a court decides:

- (a) there was a reasonable excuse; and
- (b) Tseil-Waututh has not been prejudiced in its defence by the failure or insufficiency.

Compliance with other By-laws

9.7 Where any other law or legal requirement may apply to any matter covered by this By-law, compliance with this By-law will not relieve the person from also complying with the provisions of the other applicable law or legal requirement.

Severability

9.8 In the event that all or any part of any section of this By-law is found by a court of competent jurisdiction to be invalid, that part or section shall be severable, and the remaining portions and sections of this By-law shall remain in full force and effect.

Coming into Force

9.9 This By-law will come into force on the date that it is duly passed by Council.

BE IT KNOWN that this By-law is hereby enacted by a quorum of Council of Tseil-Waututh held on__the 30th day of April __, 2020





