

GITGA' AT FIRST NATION

FIRE AND EMERGENCY RESPONSE BYLAW NO. 001-2018

A **BYLAW** to provide for the prevention and suppression of fires and the management of emergency situations in order to protect life and property;

WHEREAS section 81 of the *Indian Act* empowers a Council of a Band to make bylaws respecting various aspects of community services, on matters ancillary thereto and the imposition of a penalty for the violation of any such bylaws;

AND WHEREAS the reserves of the Gitga'at First Nation are located in remote locations with limited access and infrastructure and the Gitga'at First Nation has limited resources to address emergencies on reserve;

AND WHEREAS Council of the Gitga'at First Nation deems it advisable and in the best interests of the Gitga'at First Nation to enact a bylaw to provide a management program for the establishment of a Gitga'at First Nation Volunteer Fire Department and to prepare for, respond to and recover from fires and other emergencies including prevention measures within Gitga'at First Nation reserves, in order to support the protection of life and property;

NOW THEREFORE the Council of the Gitga'at First Nation hereby enacts the following bylaw:

Short Title

- 1 This bylaw may be cited as the "*Gitga'at First Nation Fire and Emergency Response Bylaw*".

Interpretation

- 2 In this bylaw:

"**Council**" means the duly elected Council, as defined in the *Indian Act*, of the Gitga'at First Nation;

"**Department**" means the Gitga'at First Nation Volunteer Fire Department, established in accordance with the provisions of this bylaw and any other applicable Council resolutions;

"**Department member**" means a volunteer or employee of the Department and includes the Fire Chief;

"**Departmental Rules**" means any rules, regulations, policies and procedures necessary for the proper organization and administration of emergency services on reserve, as determined by the Fire Chief;

"**dwelling**" means any house, apartment, mobile home, or a room located therein, or any similar lodging, situated on reserve and used for human habitation;

"**emergency**" means a present or imminent event that:

- (1) is caused by accident, fire, explosion or technical failure, or by the forces of nature; and
- (2) requires prompt coordination of action, or special regulation of persons or property, to protect the health, safety or welfare of people or to limit damage to property;

"**Fire Chief**" means the head of the Department as appointed in section 5 of this bylaw;

"**Gitga'at**" or "**Gitga'at First Nation**" or "**Nation**" means the Gitga'at First Nation, formerly known as the Hartley Bay Indian Band, a "band" as defined under the *Indian Act*;

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

“**premises**” means any building or structure, whether commercial or residential, and includes dwellings;

“**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

“**volunteer**” means a person validly appointed by the Fire Chief as a volunteer Department member.

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

Establishment of Volunteer Fire Department

- 4 A volunteer fire department that will service the Gitga’at First Nation community at Kulkayu (Hartley Bay) Indian Reserves Nos. 4 and 4A, to be known as the Gitga’at First Nation Volunteer Fire Department, is hereby established, and the head of the Department will be known as the Fire Chief.

Appointments

- 5 The Fire Chief will be appointed by a resolution of Council.
- 6 Where Council is appointing a new Fire Chief to replace an existing Fire Chief who is resigning or retiring from the position, Council will consider any recommendations that the outgoing Fire Chief might make to Council with regard to the appointment of the new Fire Chief, but, for greater certainty, Council is not bound by that recommendation.
- 7 The Department members will consist of the Fire Chief and such persons, paid or volunteer, as may be appointed or hired pursuant to sections 8-10.
- 8 The Fire Chief may appoint volunteers and may make recommendations for hiring of paid Department members to the Council.
- 9 No Department member shall be appointed as a paid Department member unless that appointment is approved by the Council or such other person to whom Council has, by resolution, delegated the authority to approve such appointments.
- 10 No person may be hired or appointed as a member unless that person meets the qualifications set out in section 12, as applicable.
- 11 The Fire Chief may temporarily designate a Department member to serve as Fire Chief when, in the opinion of the Fire Chief, it is necessary to do so, and the Fire Chief will be responsible for ensuring, to the extent reasonably possible, any such designated person understands and assumes all of the duties and responsibilities of the Fire Chief for the duration of such temporary designation.
- 12 No person will be admitted as a Department member unless that person:
- (1) is ordinarily resident in Hartley Bay, British Columbia;
 - (2) is between the ages of eighteen (18) and sixty (60) years old if such person may be physically attending and/or responding to emergencies as appropriate to the position and contemplated in this bylaw;

- (3) is of good character, in the opinion of the Fire Chief;
- (4) passes such aptitude and physical tests and medical examinations as reasonably prescribed by the Fire Chief from time to time;
- (5) has successfully undertaken all training requirements as provided in the Departmental Rules or as further prescribed by the Fire Chief; and
- (6) agrees in writing to abide by any Department code of conduct as may be established by the Fire Chief.

Remuneration

- 13** The remuneration of the Fire Chief, and any paid employees of the Department, will be determined and reviewed annually by Council. Volunteers will not be compensated financially except for out of pocket expenses relating directly to their service to the Department, which expenses have been approved by the Fire Chief in writing (for example, training expenses).

Fire Chief Roles & Responsibilities

- 14** The Fire Chief is responsible to Council and the Nation for the proper administration and operation of the Department, for the training and discipline of Department members, and will at all times:
- (1) create and update the Departmental Rules as may be necessary for the care and protection of the property of the Department, for the conduct of Department members, and generally for the efficient operation of the Department, provided that such Departmental Rules do not conflict with any existing Gitga'at First Nation bylaws;
 - (2) take reasonable measures for the prevention, control and extinguishment of emergencies and for the protection of life and property;
 - (3) recommend that Council enter into agreements with surrounding municipalities and governments, and/or local agencies, for mutual aid or assistance in emergency response planning and management, where he deems appropriate;
 - (4) enforce all Council bylaws respecting emergency prevention and management including this bylaw, all Departmental Rules and any general or specific orders imposed by the Fire Chief from time to time; and
 - (5) promptly report all emergencies to the Emergency Operations Centre of Indigenous and Northern Affairs Canada, as required.
- 15** The Fire Chief is authorized to direct and control all emergency prevention, management and response activities on reserve, and such other protection and prevention activities for which he is authorized under Gitga'at First Nation bylaws, and subject to capacity and resources available, including but not limited to:
- (1) first response medical emergencies;
 - (2) rescue operations;
 - (3) responding to hazardous material emergencies; and

- (4) other related public and community services.
- 16 The Fire Chief will establish the Departmental Rules and any committees necessary for the proper organization and administration of emergency services on reserve, and review and update such Departmental Rules and committee terms of reference as the Fire Chief deems reasonably necessary.
- 17 The Fire Chief will, from time to time, report to Council on the operations of the Department or on any other relevant matter and will fulfill the reporting requirements set out in sections 29 to 32.

Right of Entry in Emergency

- 18 The Fire Chief is empowered to enter, without notice and at any time, any parcel of land or premises on reserve where the Fire Chief has reasonable grounds to believe an emergency has occurred or is occurring and to cause any Department member, vehicle or equipment of the Department to enter such land or premises as deemed necessary in order to combat, control or address the emergency.
- 19 During an emergency, the Fire Chief is empowered to enter or pass through or over any parcel of land or premises adjacent to the emergency and to cause Department members and vehicles and equipment of the Department to enter or pass through or over such adjacent land or premises where deemed necessary to gain access to the emergency or to protect any person or property.

Inspections

Authorization to Enter

- 20 The Fire Chief, or a Department member designated by the Fire Chief, may, upon providing 48 hours' notice to the occupants of any premises located on reserve:
- (1) enter at all reasonable times upon such premises in order to ascertain whether the requirements of this bylaw are being complied with, including with respect to smoke alarms;
 - (2) where the Fire Chief has reason to believe that conditions exist on a residential premises that may cause or increase the danger of an emergency or danger to person or property, enter at all reasonable times and inspect the residential premises for conditions which may cause, or increase the danger of, any emergency or increase other danger to persons or property, and may handle such conditions in any manner the Fire Chief or the designated member deems appropriate and that is in accordance with this bylaw; and
 - (3) For non-residential premises, enter at all reasonable times and inspect the premises for conditions which may cause, or increase the danger of, any emergency or increase other danger to persons or property, and may handle such conditions in any manner the Fire Chief or the designated member deems appropriate and that is in accordance with this bylaw

Provision of Information & Assistance

- 21 Every owner and occupant of premises will provide all information and will render all assistance required by the Fire Chief or a Department member designated by the Fire Chief in connection with the inspection of such premises pursuant to this Bylaw.

Refusal to Assist

- 22 A person must not obstruct or interfere with, or refuse to assist, the Fire Chief or a Department member designated by the Fire Chief, in carrying out any inspection or other duty pursuant to this bylaw.

Remedial Orders

- 23 The Fire Chief, or a Department member designated by the Fire Chief, may issue orders in writing requiring the correction or removal of any condition or thing in or about premises which he deems to be in contravention of this bylaw or which create dangerous conditions as described in section 20, and every owner or occupant of same will carry out every requirement of the order.

Dating of Orders

- 24 Every order issued by the Fire Chief or a Department member designated by the Fire Chief pursuant to this bylaw will state a date by which the order will be carried out, which date will, in the discretion of the issuer, have regard to the degree of urgency involved in correcting or removing condition which may tend to increase the danger.

Smoke Alarms

- 25 The owner and occupant of every premises must ensure that one or more smoke alarms are installed and maintained on every floor or level of every dwelling unit or suite and that such smoke alarms are tested according to the manufacturer's specifications to ensure that they are functioning correctly at all times, and are repaired immediately if not functioning.

Investigation

- 26 Where the Department responds to a fire on reserve that causes damage to property or injury to person, the Fire Chief may investigate or designate a Department member to investigate the cause of the fire.
- 27 In order to carry out an investigation into the cause of a fire, Department members have authority at all times to enter and examine a building, premises, motor vehicle or vessel where the fire occurred and if necessary those adjoining or near the fire.
- 28 It is the duty of every owner or occupier where a fire occurs to assist Department members with the investigation upon request, and that duty to assist includes providing information he or she has relating to the fire.

Reporting

Upon becoming aware of an emergency

- 29 Where the Fire Chief becomes aware of an emergency on reserve, the Fire Chief will take reasonable steps to inform the Council and the chief administrator of the Gitga'at First Nation of the existence of the emergency as soon as reasonably possible after becoming aware of the emergency.

Record of emergency response

- 30 Where the Department responds to an emergency on reserve that causes damage to property or injury to person, the Fire Chief will make a record of the emergency, with that record including at least:
- (1) The date, time, location, and kind of emergency as well as the details of damage;
 - (2) How the Department became aware of the emergency;

- (3) Details of the Department response to the emergency, including the time and duration of the response, the members and Department assets involved in the response, actions taken in response; the time and the reason why the response was ended;
- (4) Any follow-up investigation into the cause and the result of that investigation; and
- (5) Any other follow-up action taken.

Annual report

- 31 The Fire Chief will prepare a written report to Council on an annual basis that:
 - (1) Identifies Department members that year, including persons joining and leaving;
 - (2) Reports on budget and use of funds;
 - (3) Describes inspections completed;
 - (4) Lists the emergency responses and attaches as an appendix or makes available every record of an emergency response prepared under section 30; and
 - (5) Describes other Department operations for the year.
- 32 The Fire Chief will present the annual report to Council on or before March 31 of every year.

Liability

- 33 No person, including, without limitation, the Nation, Council members, Department members, or any other persons appointed, authorized or requested to carry out measures relating to emergencies on reserve lands, 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 bylaw, unless, in doing or omitting to do the act, the person was grossly negligent.

General

- 34 No Department member:
 - (1) while in uniform, will enter any premises where alcoholic beverages are sold or consumed, except in the performance of his Departmental duties;
 - (2) if his ability is impaired by the use of an intoxicating beverage or drug, will be permitted to remain on duty; and,
 - (3) while on duty, will consume any intoxicating beverage or drug.
- 35 Every Department member will abide by any Department code of conduct as may be developed by the Fire Chief.
- 36 The Fire Chief may reprimand, suspend or recommend dismissal of any Department member for insubordination, inefficiency, misconduct, tardiness or for conduct that is not in compliance with any of

the provisions of this bylaw, the Departmental Rules or other general orders prescribed by the Fire Chief that, in the opinion of the Fire Chief, is detrimental to the discipline and efficiency of the Department.

37 Following the suspension of any Department member, the Fire Chief will report the suspension and his recommendation to Council.

Penalty

38 Any person impeding, interfering with or hindering any Department member in the discharge of his or her duties at an emergency, or contravening any of the provisions of this bylaw, 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.

Severability

39 If any part or section of this bylaw 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 bylaw.

General

40 This bylaw will come into force when it is published pursuant to subsection 81(1) of the *Indian Act*.

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THIS BYLAW IS HEREBY enacted at a duly convened meeting of Council of the Gitga'at First Nation this 17 day of July, 2018. Voting in favour of the bylaw are the following volunteers of Council:

Arnold Clifton, Chief

Cameron Hill, Councillor

Mary Danes

Mary Danes, Councillor

Bruce Reece

Bruce Reece, Councillor

Simone Reece

Simone Reece, Councillor

being a majority of those volunteers of Council of the Gitga'at First Nation present at the aforesaid meeting of Council.

The quorum of Council is three (3) volunteers.

Number of volunteers of Council present at the meeting: 3